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Parliamentary History.

VOL. XV.

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Published under the Superintendence of

T. C. HANSARD,

PETERBOROUGH COURT, FLEET STREET,

By whom all Communications for this Work, and also for the "PARLIAMENTARY DEBATES," will be attended to.

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THE

Parliamentary History

OF

ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED, "THE PARLIAMENTARY DEBATES."

VOL. XV.

A. D. 1753—1765.

LONDON:

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET:

FOR LONGMAN, HURST, REES, ORME, & BROWN; J. RICHARDSON; BLACK, PARRY, & CO.; J. HATCHARD; J. RIDGWAY; E. JEFFERY; J. BOOKER; J. RODWELL; CRADOCK & JOY; R. H. EVANS; E. BUDD; J. BOOTH; AND T. C. HANSARD.

1813.

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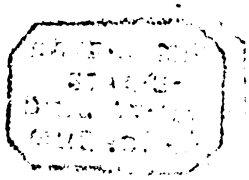

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PREFACE.

THE present Volume will be found to contain much new matter. Among the many valuable Debates in both Houses now, for the first time, presented to the Public in a collected form, are the following: viz. The Debates on the Clandestine Marriage Bill — on the Repeal of the Jews' Naturalization Bill — on the Bills for extending the Mutiny Act to the East and West Indies — on the Oxfordshire Election — on the Management of the Lottery — on the Treaties with Russia and Hesse Cassel — on the Bristol Nightly Watch Bill — on the Militia Bill — and on the Bill for speedily Manning the Navy.

As many enquiries have been made respecting THE SECKER MANUSCRIPT *, containing the Debates in the House of Lords, from 1735 to 1743, the Public are informed that it is deposited in the British Museum.

* See the Preface to Volume XII.

LONDON, 5, *Panton Square*,
May 1, 1813.

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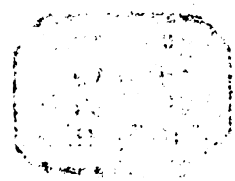

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III. King's Speeches.
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1747.	Archbishop of Canterbury	Thomas Herring.
1757.	----------	Matthew Hutton.
1758.	----------	Thomas Secker.

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1747. Archbishop of York..... Matthew Hutton.
1757. - - - - - - - - - - ..... John Gilbert.
1761. - - - - - - - - - - ..... Robert Drummond.

BISHOPS.

1748. Bishop of St. Asaph ..... Robert Drummond.
1761. - - - - - - - - - - ..... Richard Newcombe.
1747. - - - - - Bangor ..... Zachariah Pearce.
1756. - - - - - - - - - - ..... John Egerton.
1743. - - - - - Bath and Wells ..... Edward Willis.
1750. - - - - - Bristol ..... John Conybear.
1758. - - - - - - - - - - ..... John Hume.
1758. - - - - - - - - - - ..... Philip Yonge.
1761. - - - - - - - - - - ..... Thomas Newton.
1754. - - - - - Chichester ..... Sir William Ashburnham, bart.
1749. - - - - - Coventry and Litchfield ..... Hon. Frederick Cornwallis.
1752. - - - - - St. David's ..... Anthony Ellis.
1761. - - - - - - - - - - ..... Samuel Squire.
1754. - - - - - Ely ..... Matthias Mawson.
1746. - - - - - Exeter..... George Lavington.
1761. - - - - - - - - - - ..... Frederick Keppel.
1752. - - - - - Gloucester ..... James Johnson.
1760. - - - - - - - - - - ..... William Warburton.
1746. - - - - - Hereford ..... Lord James Beauclerk.
1754. - - - - - Landaff ..... Richard Newcome.
1761. - - - - - - - - - - ..... John Ewer.
1740. - - - - - Lincoln ..... John Thomas.
1761. - - - - - - - - - - ..... John Green.
1748. - - - - - London ..... Thomas Sherlock.
1761. - - - - - - - - - - ..... Thomas Hayter.
1762. - - - - - - - - - - ..... Thomas Osbaldeston.
1764. - - - - - - - - - - ..... Richard Terrick.
1749. - - - - - Norwich ..... Thomas Hayter.
1761. - - - - - - - - - - ..... Philip Yonge.
1737. - - - - - Oxford..... Thomas Secker.
1758. - - - - - - - - - - ..... John Hume.
1747. - - - - - Peterborough ..... John Thomas.
1757. - - - - - - - - - - ..... Richard Terrick.
1764. - - - - - - - - - - ..... Robert Lamb.
1731. - - - - - Rochester ..... Joseph Wilcocks.

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1756.	Bishop of Rochester	Zachariah Pearce.
1748.	- - - - - Salisbury	John Gilbert.
1757.	- - - - - - - - - -	John Thomas I.
1761.	- - - - - - - - - -	Robert Drummond.
1761.	- - - - - - - - - -	John Thomas II.
1734.	- - - - - Winchester	Benjamin Hoadly.
1761.	- - - - - - - - - -	John Thomas.
1743.	- - - - - Worcester	Isaac Maddox.
1759.	- - - - - - - - - -	James Johnson.
1747.	- - - - - Carlisle	Richard Olbadeston.
1762.	- - - - - - - - - -	Charles Lyttelton.
1752.	- - - - - Chester	Edmund Keene.
1752	- - - - - Durham	Richard Trevor.

LORD HIGH CHANCELLORS.

1737.	Feb. 21.	Philip, Lord Hardwicke, (created Viscount Royston, and Earl of Hardwicke, 1754.)
1756.	Nov. 19.	Sir John Willes, knt. Lord Chief Justice of the Common Pleas; Sir Sidney Stafford Smythe, knt. one of the Barons of the Exchequer; Sir John Eardley Wilmot, knt. one of the Justices of the King's-Bench; Commissioners of the Great Seal.
1757.	.....	Sir Robert Henley, knt. Lord Keeper. Created Lord Henley, 1760.
1764.	Jan. 16.	——— Made Lord Chancellor. And created Earl of Northington, May 19.

PRINCIPAL SECRETARIES OF STATE.

1751.	July 12.	Robert, Earl of Holderness, vice the Duke of Bedford.
1754.	Apr. 6.	Sir Thomas Robinson, K. B. (afterwards Lord Grantham) vice the Duke of Newcastle.
1755.	Nov.	Henry Fox, esq. (afterwards Lord Holland) vice Sir Thomas Robinson.
1756.	Dec.	William Pitt, esq. (afterwards Earl of Chatham) vice Mr. Fox. He resigned in April 1757.
1757.	June 30.	William Pitt, esq.
1761.	Mar. 25.	John, Earl of Bute, vice Lord Holderness.
	Oct. 9.	Charles, Earl of Egremont, vice Mr. Pitt.
1762.	May 29.	Hon. G. Grenville, vice Lord Bute.
	Oct. 14.	George, Earl of Halifax, vice Mr. Grenville.
1763.	Sept. 9.	John, Earl of Sandwich, vice Lord Egremont.

SPEAKERS OF THE HOUSE OF COMMONS.

1727, 1735, 1741, 1747, 1754. Arthur Onslow, Esq.
1761. Sir John Cust, bart.

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COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH TREASURER OF ENGLAND.

1749. May. Hon. Henry Pelham, Chancellor of the Exchequer.
George Lyttelton, esq.
John Campbell, esq.
Hon. G. George Grenville.
Hon. Henry Vane (afterwards Earl of Darlington).

1754. Mar. 9. Sir William Lee, knt. Lord Chief Justice of the King's Bench, Chancellor of the Exchequer.

16. Thomas Holles Pelham, Duke of Newcastle, First Commissioner.

Apr. 6. T. H. Pelham, Duke of Newcastle.
Henry, Earl of Darlington.
Hon. H. B. Legge, Chancellor of the Exchequer.
Thomas, Viscount Dupplin.
Robert Nugent, esq.

1755. Nov. 22. T. H. Pelham, Duke of Newcastle.
Henry, Earl of Darlington.
Sir George Lyttelton, bart. Chancellor of the Exchequer (afterwards Lord Lyttelton).
Thomas, Viscount Dupplin (afterwards Earl of Kinnoul).
Robert Nugent, esq.

Dec. 20. T. H. Pelham, Duke of Newcastle.
Sir George Lyttelton, bart. Chancellor of the Exchequer,
Robert Nugent, esq.
Percy Windham O'Brien, esq. (afterwards Earl of Thomond).
Henry Furnese, esq.

1756. Nov. 16. William, Duke of Devonshire.
Hon. H. B. Legge, Chancellor of the Exchequer.
Robert Nugent, esq.
William, Viscount Duncannon (afterwards Earl of Besborough).
Hon. James Grenville.

1757. April 9. William Murray, Lord Mansfield, Lord Chief Justice of the King's Bench, Chancellor of the Exchequer.

July 2. T. H. Pelham, Duke of Newcastle.
Hon. H. B. Legge, Chancellor of the Exchequer.
Robert Nugent, esq.
William, Viscount Duncannon.
Hon. James Grenville.

1759. June 2. T. H. Pelham, Duke of Newcastle.
Hon. H. B. Legge, Chancellor of the Exchequer.
Robert Nugent, esq. (afterwards Earl Nugent).
Hon. James Grenville.
Frederick North, Lord North.

Dec. 22. T. H. Pelham, Duke of Newcastle.
Hon. H. B. Legge, Chancellor of the Exchequer.
Hon. James Grenville.
Frederick, Lord North.
James Oswald, esq.

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1761.	Mar. 12.	T. H. Pelham, Duke of Newcastle.
		William, Viscount Barrington, Chancellor of the Exchequer.
		Frederick, Lord North.
		James Oswald, esq.
		Gilbert Elliot, esq.
1762.	May 29.	John, Earl of Bute.
		Sir Francis Dashwood, bart. Chancellor of the Exchequer (afterwards Lord Le Despencer).
		Frederick, Lord North.
		James Oswald, esq.
		Sir John Turner, bart.
1763.	Apr. 16.	Hon. George Grenville, Chancellor of the Exchequer.
		Frederick, Lord North.
		Sir John Turner, bart.
		Thomas Orby Hunter, esq.
		James Harris, esq.

Masters of the Rolls.

1750.	Jan. 13.	Sir John Strange, knt.
1754.	May 25.	Sir Thomas Clarke, knt.
1764.	Dec. 4.	Sir Thomas Sewell, knt.

Attorneys General.

1736.	Jan. 26.	Sir Dudley Ryder, knt.
1754.	Apr. 20.	Hon. William Murray, afterwards Earl of Mansfield.
1756.	Nov. 6.	Sir R. Henley, knt. afterwards Earl of Northington.
1757.	July 1.	Sir Charles Pratt, knt. afterwards Lord Camden.
1762.	Jan. 25.	Hon. Charles Yorke.
1763.	Dec. 16.	Sir Fletcher Norton, knt. afterwards Lord Grantley.

Solicitors General.

1742.	Nov. 27.	Hon. William Murray.
1754.	Apr. 20.	Sir Richard Lloyd, knt.
1756.	Nov. 6.	Hon. Charles Yorke.
1761.	Dec. 14.	Fletcher Norton, esq.
1763.		William De Grey, esq.

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26 GEORGE THE SECOND, A. D. 1753.

SIXTH SESSION OF THE TENTH PARLIAMENT OF GREAT BRITAIN.

[*Continued from Vol. XIV.*]

DEBATES *in the Commons on the Clandestine Marriage Bill**.] May 7, 1753. A Cause having been brought before the House of Lords by appeal, which was founded upon an alleged Clandestine Marriage, it set the bad consequences of such marriages in so strong a light, that their lordships ordered the judges to prepare and bring in "a Bill for the better preventing of Clandestine Marriages;" which they accordingly did: but the Bill met with so many alterations and amendments in that House, that it was not sent down to the Commons till this day.

May 14. The said Bill was read a second time, and on the motion that it be committed, the following Debate took place:†

Mr. Attorney General *Ryder*:

Sir; the Bill which has been now read a second time, is designed for putting an end to an evil which has been long and grievously complained of, an evil by which many of our best families have often suffered, and which our laws have often endeavoured to prevent, but always hitherto without success; and yet it is an evil which, one would think, should rarely happen, if we consider that duty and respect which children ought to shew towards their parents, and that indulgence and affection parents ought to have for their children, especially in that affair of their marriage, which is generally the first step that people of all ranks make into the world, and a step upon which their future happiness, prosperity and success almost entirely depends. In this step the happiness both of the parents and children is so intimately concerned, that children ought never to make it without the approbation of their parents, nor ought the parent to refuse his approbation, when the match proposed is not such as apparently tends to the dishonour of his family, or may probably bring on the ruin of his child. Yet we often find the passion called love triumphing over the duty of children to their parents, and on the other hand we sometime find the passion of pride or avarice triumphing over the duty of parents to their children. And when a young gentleman or lady happens to be born to a good fortune, they are so beset with selfish design-

* From the London Magazine.

† "A Bill, passed this session, met with much opposition. This was the Bill for the better preventing Clandestine marriages. The fatal consequences of clandestine marriages had been long complained of in England, as rendering the succession to all property unsecure and doubtful. Every day produced hearings of the most shocking kind in the court of Chancery, and appeals in the House of Peers, concerning the validity of such marriages; and sometimes the innocent offspring was cut off from succession, though their parents had been married, *bona fide*, because of the irregularity of such marriage. On the other hand, both women and men of the most infamous characters, had opportunities of ruining the sons and daughters of the greatest families in England, by conveniencies of marrying in the Fleet, and other unlicensed places; and marrying was now become as much a trade, as any mechanical profession. Some recent instances of these evils coming before the House of Peers, it was

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ing people, and so many arts made use of for engaging their affection, that their innocence often becomes a prey to the lowest and vilest seducer. How often have we known the heir of a good family seduced, and engaged in a clandestine marriage, perhaps with a common strumpet? How often have we known a rich heiress carried off by a man of low birth, or perhaps by an infamous sharper? What distress some of our best families have been brought into, what ruin some of their sons or daughters have been involved in, by such means, every gentleman may from his own knowledge recollect; and every gentleman must allow, that such misfortunes ought to be prevented, if possible.

That this ought to be done, Sir, the laws we have now in being are a sufficient testimony; for not only by the canons, but by several statutes, marriage without proclamation of banns, or a regular licence, is prohibited; and no licence ought ever to be granted unless oath be made, that the parties are of age, or that the parents or guardians have given their consent. Besides this, there are several penalties inflicted by the statutes, for by a statute so long since as the third of Henry 7, it is made felony to take away, or to be concerned in taking away, a woman having lands or goods, or that is heir apparent to her ancestor, and to marry or defile her, even though she should after being thus taken away consent to be married or to be defiled by one of those concerned in taking her away; which statute is confirmed by one of the 39th of Elizabeth, and all principals, procurers or accessaries in any such offence are excluded the benefit of clergy; and by a statute of Philip and Mary, whoever shall take away, or cause to be taken away even with her consent, any maid or woman-child unmarried, being within the age of 16, and deflower or marry her without the consent of the father or of the mother having the custody of her, after the death of the father, shall be fined or imprisoned for five years; and if such woman-child, being above 12 and under 16, shall consent to such marriage, she shall be deprived of her inheritance during her life. And even at common law an information will lie, and a punishment may be inflicted, for seducing a young man or woman away from their parents, and getting such young man or woman married, without the consent of the parents.

Thus, Sir, by our old laws great care has been taken to prevent young gentlemen or ladies from being seduced, or taken away and married, without the consent of their parents or guardians; and by two late statutes clandestine marriages of all kinds have been expressly prohibited;

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recommended to the judges, by some of the greatest and most serious men in the nation, to prepare and bring in the Bill, which they accordingly did; and having received great alterations in that House, it was sent down to the Commons.

"It does not fall within the compass of history, to reason how far the civil power alone had a right to judge in this matter. The fact is, that the most surprizing opposition was immediately spirited up against it in the House of Commons. Mr. Pelham was sincerely for the Bill, upon principles of private conviction. Others, perhaps upon the same principles, as warmly opposed it, as being calculated for engrossing all the property in the kingdom amongst great and rich families. The attorney and solicitor general had been at great pains to study the matter, and were zealous advocates for the Bill, as was lord Barrington, with several other members of great weight and consideration. Mr. Fox, who was then secretary at war, was as strenuous an enemy to the Bill: Mr. Nugent spoke with great warmth, and indeed with great abilities, against it, as did Mr. Townshend, and many other gentlemen of the ministerial, as well as the anti-ministerial party. In short, the opposition to it was such, that during its course through the House of Commons, few clauses in it remained unamended and unaltered even by the friends of the Bill; and Mr. Fox holding it up in the House, as Anthony exposed the murdered body of Cæsar, made a kind of a parody of the speech in Shakespear upon that occasion. Notwithstanding this, the friends of the Bill contended, that the principles of it were still the same; and Mr. Pelham, besides the private reasons he had for being for the Bill, began to think it now high time to support it upon a political account, because he thought that the opposition made, was not so much to the Bill as to himself; and he was heard to talk to that purpose with more warmth, and less caution, than he used to do on other occasions. This Bill, however, passed, by a majority of 125 against 56; and being sent to the House of Lords, the amendments, after some debates, were agreed to, and it received the royal assent. Though it was the 4th of June before the Bill passed the House of Commons, and though the town was then not very full of members, yet it is certain that a great many of Mr. Pelham's friends, out of regard to him, and seeing how he was pushed, absented from the House, rather than be obliged to vote against him, and for a Bill which they disapproved of in their own minds." Tindal.

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for by an act of the 7th and 8th of king William it is enacted, that if a parson shall marry any person in any church or chapel, or in any other place whatsoever, or if he shall employ, or suffer any other minister to marry any person in any church or chapel to such parson belonging, without publication of banns, or licence, he shall for every such offence forfeit 100*l.* the man so married shall forfeit 10*l.* and the sexton or parish clerk, knowingly assisting thereat, 5*l.* This forfeiture, to the parson so offending, was re-enacted in the 10th of queen Anne; and it was then further enacted, that if the offender, at the time of the offence committed, should be a prisoner in any prison, not being a county gaol, he should, upon his conviction, be removed to the county gaol, and there charged in execution with the said penalty, and with all the causes of his former imprisonment. Moreover, it was by this last act enacted, that if the keeper of any prison should be privy to, or knowingly permit any such marriage in his prison, he should for every such offence forfeit 100*l.* And besides all these provisions by canon, statute, and common law against clandestine marriages, the Court of Chancery has always deemed it a contempt of that court to marry one of its wards without the consent of the Court, and has been in use to commit the offenders to prison for that contempt during the pleasure of the Court.

It is therefore plain, Sir, that in the eye of the law a clandestine marriage has always been deemed an offence which ought to be punished, and an evil which ought to be prevented. But when a young gentleman or lady is entitled to a large estate, the advantage to be got by marrying them is so great, and consequently the temptation so strong, that our laws have never as yet been able to prevent the evil; for they are either such as may be easily evaded, or the penalties are too small, and the only proper penalty that has ever been inflicted is laid upon the wrong person; which juries are so sensible of, that it would be very difficult to give so clear a proof, as to prevail with them to bring in a verdict against the defendant. When I say this, it will be understood, that I mean the statute of Philip and Mary, which deprives a young lady under 16 of her inheritance, for consenting to a marriage, to which she has been seduced by some deceitful betrayer. This is really punishing the innocent, and adding misfortunes innumerable to her misfortune; and therefore it would be the height of cruelty to take advantage of, or to carry this law into execution, could it even be proved to the satisfaction of a jury, that she had voluntarily and freely consented to such a marriage; but as this, as I have said, can very seldom if ever be done, this law is no bar to the seducing a young lady of great fortune to elope from her parents or guardians, and to marry her betrayer; and the penalty or punishment, inflicted upon him by that statute, is not so severe as to deter him from committing the crime. Indeed, I do not think that any punishments, either upon the parties contracting the marriage, or the clergyman that performs the ceremony, can be made so severe as to be effectual against all sorts of clandestine marriages; because the several cases cannot be properly distinguished, and a punishment that would be so severe as to be effectual in the most heinous and most tempting case, would be by much too severe in all the others.

Nothing can, in my opinion, Sir, be effectual for preventing clandestine marriages of every kind, but that of declaring all such marriages null and void to all intents and purposes. This, I am persuaded, our ancestors were sensible of, but a superstitious opinion then prevailed, that when a marriage between two persons come to the age of consent was once solemnized by a man in holy orders, it was so firmly established by the divine law, that it could not be annulled and made void by any human law whatever. Thank God! we have in this age got the better of this, as well as we have of a great many other superstitious opinions; and the reverend bench in the other House will deserve the thanks of latest posterity, for consenting to render Christianity consistent with common sense. I hope, I shall not be mistaken: primitive and pure Christianity always was consistent with common sense; but additions have been since made to it, many of which are inconsistent with common sense, and of these I take the old opinion relating to marriage to be one; for I think nothing can be more inconsistent with common sense than to say, that the supreme legislature of a society cannot put contracts of marriage, as well as every other contract, under what regulations they think most conducive to the good of that society. And I think it is ridiculous to say, that infants shall have a power, when they come of age, to avoid

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and annul every contract they made, even for the merest trifle, while under age, without the consent of their parents or guardians, and yet if without consent of father or mother, or guardian, they dispose of themselves and every thing that belongs to them in marriage whilst under age, they shall have no power to avoid that contract when they come of age, let it be never so fraudulent, pernicious, or infamous. This is adding a sanctity to the marriage contract, which is inconsistent with the good of every society, and with the happiness of mankind in general. It is what the canon law itself does not do; for even by that law a marriage may for several reasons be declared to have been void from the beginning; and if a boy marries before the age of 14, or a girl before 12, though the marriage be allowed to be so good that they need not be married again, yet both of them may avoid the marriage when they come to the age of consent, even by the canon law, that is to say, the boy at the age of 14, and the girl at 12; and if at that age they do declare the marriage void, it becomes void, likewise as to the wife of the boy, or the husband of the girl, though she or he was of full age at the time the marriage was solemnized.

But the ruin of young persons, and the distress of families, is not the only evil, Sir, that is brought upon society by this sanctity and indissolubility that has been added to clandestine marriages: every gentleman that has been conversant in the practice of the law knows, what a number of expensive law suits are thereby occasioned about the legitimacy of children; and how difficult it often is to determine whether the parents were married or no: nay, sometimes a clandestine marriage is set up after a man's death, which was never heard of in his life time, and by an incontestable proof, which may by ways and means be obtained, his whole effects are carried away from his relations by the children of a woman whom he never acknowledged as his wife. Another very great and frequent evil is, the occasion which these clandestine marriages furnish for polygamy: if all marriages were publicly solemnized, or so publicly that it must be known in the neighbourhood, it would be difficult for any man or woman to be guilty of polygamy: at least no man or woman could be drawn in to marry a woman or man, who had then a husband or wife living, without being guilty of very great rashness and neglect; but at present a man may have privately a wife in every corner of this city, or in every town he has been in, without its being possible for them to know of one another, or for the next woman to whom he makes his addresses, to discover his being a married man. And the very Bill now before us owes its rise to a most flagrant case that was this session brought before the other House: a gentleman had married a lady of family and fortune, had lived several years with her, and had children by her, yet after his death another woman laid claim to him as her husband, by virtue of a marriage solemnized between them before his marriage with the lady, whom he always acknowledged as his wife.

Thus, Sir, we may see what infinite mischiefs flow from this sanctity and indissolubility, which has been added to the marriage contract; and how this contract came to be held so sacred and divine as not to be touched or regulated by any human law, we need not be at a loss to discover. When popery, ignorance, and superstition rode triumphant in every part of Europe, the court of Rome took care to establish every regulation they could think of, that might tend towards rendering applications necessary and frequent to the holy see, from every one of which they knew how to draw large fees and perquisites. For this purpose, they extended considerably the prohibited degrees of marriage, and for this purpose they made the marriage contract a sacrament, or sacred and divine contract, which no unhallowed law was to meddle with. But the Pope by his dispensation could make any marriage lawful, and by his decree he could dissolve the most regular and solemn marriage that was ever entered into, and that without so much as consulting the laws of the society or country where such marriage was to be, or had been solemnized; for the church, that is to say, the court of Rome, had then assumed the sole power of regulating and of judging in every thing relating to marriage; though we have the most authentic proof, that this was not the practice during the first ages of Christianity; for among the Romans, divorces by mutual consent were allowed for a long time after the establishment of Christianity, as appears by several laws of the first Christian emperors, and such divorces were prohibited by a law of the emperor Justinian, and again introduced by a law of the emperor Justin, without the inter-

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vention, and for what what appears, without so much as consulting any bishop or ecclesiastical assembly.

From these laws, Sir, which are still extant it is evident, that the doctrine afterwards introduced by the court of Rome, was not so much as dreamt of during the first ages of Christianity, no not for above 300 years after it had been established as the religion of the Roman empire; for Justinian did not begin his reign till Aug. 1, 527, a day now remarkable in this kingdom, and it was in the year 312 that Constantine the Great declared himself a Christian. How we came to retain this Popish doctrine, that a marriage between two persons once solemnized by a clergyman in holy orders, is so sacred a contract that it cannot be disannulled by any human law; I say, how we came to retain this doctrine after the Reformation, I shall not pretend to account for; but that it is not a Christian doctrine I have clearly shewn, and we may be convinced from experience, that it is impossible to prevent clandestine marriages, or any of the evils flowing from them by any other method but that of declaring them null and void, to all intents and purposes whatsoever. Therefore, Sir, the Bill before us begins with describing how marriages shall be solemnized for the future, by enacting, that from and after Jan. 1, 1754, all banns of matrimony shall be published, in an audible manner, during the time of divine service in the parish church or churches wherein the parties to be married shall have dwelt for the space of one month next before the publication thereof, according to the form of words prescribed in the Book of Common Prayer, upon three Sundays preceding the solemnization of marriage; that all other the rules prescribed by the rubric concerning the publication of banns and the solemnization of matrimony, and not altered by this Bill, shall be duly observed; that the publication of banns, shall be registered in the register book of the parish; and that in all cases where banns shall have been published, the marriage shall be solemnized in one of the parish churches where such banns have been published, and in no other place whatsoever.

By the next clause of the Bill it is provided, Sir, that no clergyman shall be obliged to publish the banns of matrimony between any persons whatsoever, unless the persons to be married shall seven days at the least before the time required for the first publication of such banns, deliver to him a notice in writing, of their true christian and surnames, and of the house or houses of their respective abodes, within such parish, and of the time during which they have dwelt, inhabited or lodged, in such house or houses respectively.

By the third clause, Sir, it is enacted, that no licence of marriage shall after the said day be granted, to solemnize any marriage in any other church than in the parish church within which one of the persons to be married shall have dwelt for the space of one month immediately before the granting of such licence. And by the 4th the right of the archbishop of Canterbury to grant special licences is preserved.

Then, Sir, by the 4th and 5th clauses of the Bill it is enacted, that if any person shall after the said day solemnize matrimony without publication of banns in such church as aforesaid, or without such licence as aforesaid, every person so offending shall be guilty of felony and be transported for 14 years, if prosecuted within one year after the offence committed. And that all marriages had and solemnized without publication of banns in such church as aforesaid, or without such licence as aforesaid, shall from and after the said day be null and void to all intents and purposes whatsoever.

By the 6th, 7th, and 8th, it is enacted, that after the said day all marriages had by licences as aforesaid, and all matrimonial contracts, where either of the parties shall be under the age of 21, which shall be had or entered into without the consent of the father of such of the parties so under age, if then living or, if dead, of the guardian, or if no guardian lawfully appointed, of the mother, if then living, first had and obtained under their hand respectively in writing, and attested by two credible witnesses, shall be absolutely null and void to all intents and purposes whatsoever; and that such consent so attested shall be registered in the same register, wherein the marriage of such parties shall be registered; but neither of these regulations to extend to the marriage of any person under age, whose father or mother shall be *non compos mentis*, or beyond sea, at the time of such marriage.

By the 9th it is enacted, that if the guardian be *non compos mentis*, or beyond sea, or refuses his consent to a proper and advantageous marriage, the person desirous of marrying may apply to the court of Chancery by petition, which court is to

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proceed thereupon in a summary way, and the order of that court is to be deemed as good and effectual, as if the guardian had consented.

By the 10th and 11th, no marriage lawfully solemnized is to be declared void by any ecclesiastical court, by reason of any pre-contract; nor is any such court to compel a celebration of marriage *in facie ecclesiæ*, in consequence of any pre-contract; but this not to extend to any suit commenced before March 19, 1753.

Then, Sir, the 12th clause provides against the altering, forging, or destroying any register book, or part of such book, by making every such offence felony without benefit of clergy. The 13th and 14th declare, that the act shall not extend to the marriages of any of the royal family, nor to Scotland, nor to the marriages of Quakers or Jews. And the 15th orders the act to be once read in all parish churches and chapels in each of the months of September, October, November, and December next; and afterwards quarterly for two years.

This, Sir, is the substance of the Bill now under our consideration, which I thought myself obliged to open to the House, as some gentlemen may not as yet have had an opportunity to read it with attention; and from the short account I have given of it, I believe every gentleman will see, that a method has now at last been found out to prevent effectually all clandestine marriages, and all the mischievous consequences flowing from them, without inflicting any penalties upon the innocent, or any more severe penalties upon the guilty, than every man will think they deserve. And I think there is no ceremony or solemnity required by this Bill, but what is absolutely necessary for ascertaining the marriage and rendering it public, which every marriage ought to be; and for guarding against the many artful contrivances set on foot to seduce young gentlemen and ladies of fortune, and to draw them into improper, perhaps infamous marriages. Nor is there, I think, any thing that can incumber or render difficult the ceremony of marriage among the vulgar. If it were possible, I confess that a distinction should be made between the marriages of people of rank or fortune, and those of the people we usually call the vulgar; but this it is impossible to do in this country, and therefore was not attempted by the judges who made the first draught of this Bill, by order of the other House, nor by a learned lord of that House, whose knowledge, wisdom, and capacity no one can doubt, and who, to the many eminent services he had before done his country, has now added the infinite care and pains he took in modelling this Bill. But as no human being is infallible, and as no man can foresee every thing that may be proper or necessary in a matter of so much intricacy, I shall grant, that objections may be made to some parts of the Bill. However, they are all such as, I think, we may easily remove by a few alterations or additions in the committee; and considering the respect due to the learned judges who brought in the Bill, and to the other House by which it was almost unanimously passed, I believe I need not add any new argument for gaining the concurrence of this House in the motion I am to conclude with, which is, That this Bill be committed.

Mr. *Robert Nugent*:

Sir; I know the disadvantage I labour under, when I stand up to oppose the Bill now under our consideration. All the most tender passions that can agitate the human breast militate in its favour: love for children, compassion for betrayed innocence, the honour of our families, all plead strongly for our passing it into a law. Likewise the high character of those who brought in the Bill must give every gentleman a bias in its favour; more especially the great opinion which the world so deservedly have, of the solid judgment of that noble lord who was at so much pains in the other House to render it perfect, and who has given so many and so great testimonies of his warm concern for the good of his country. All these, I say, Sir, conspire together in favour of this Bill; and yet my way of thinking is such, that for the good of the public, nay, for the good of mankind, and for the sake of that reverence which I shall always have for that sacred engagement called marriage, I think myself bound in duty to oppose the passing of this Bill into a law. I hope the hon. and learned gentleman will excuse me when I call the marriage contract sacred, after he has been at so much pains to shew, that it is no way more sacred than any other contract. But I must beg leave to say, that in my opinion, if there can be a religious and sacred engagement amongst mortals, the marriage contract is such; and it is for the interest of mankind that

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it should be thought to be so. I am as much an enemy to superstition as any gentleman in this House; but I am afraid, that if we go about to abolish all manner of superstition, we shall abolish religion itself: like Jack in the Tale, we shall tear our coat to pieces by going too roughly to work in tearing off the lace and embroideries; and both men and women are so apt in this age to forget and transgress the marriage vow, that I am far from thinking it a proper time for endeavouring to remove, even that superstitious character of sanctity, which our ancestors wisely took care to stamp upon it in the minds of the people. Whether the legislative authority can declare void and null a marriage vow, or indeed any vow that has nothing irreligious or immoral in the performance, is a question that I must suppose the reverend bench maturely considered, before they consented to this Bill; but I never yet heard that the legislative authority of this kingdom took upon them to dispense with any oath or vow that was not, from its own nature originally, or had not from some future accident become in itself void and null, if it was made by such persons as could any way be supposed capable of knowing the nature of the oath or vow they had made.

As to the practice of the primitive Christians, or rather the practice of the first Christian emperors, though I am no civilian, yet I have heard civilians talk upon the subject of divorces by mutual consent; and according to their opinion, it was a practice rather permitted than authorised. Amongst the heathen Romans a most extensive liberty of divorce or repudiation had for a long time been allowed, though contrary even to their old law, and to the very definition they gave of marriage; and when Christianity was established among them, their emperors were obliged to indulge them with some sort of liberty in this respect, not because it was agreeable to religion, or even to the good of society, but for the same reason that the great lawgiver of the Jews indulged them in several things, because of the hardness of their hearts. And if we were to introduce this custom again into this country, I am persuaded, many a husband would treat his wife with rigour and severity, and even with cruelty, on purpose to force her to consent to a divorce, in order that he might marry another woman who was richer, or whom he thought handsomer; and many a wife would treat her husband and his affairs with contempt and neglect, on purpose to force him to consent to a divorce, that she might marry another man she liked better, or perhaps merely for the sake of novelty. Therefore I have said, that this liberty of divorce by mutual consent is as little agreeable to the good of society, as it is to the principles of the purest Christianity. But by this Bill we are to go a great deal further: we are to introduce divorces without the consent of either of the married parties; for to declare a marriage void, if not celebrated with all the punctilios prescribed by this Bill, is really to divorce the husband and wife from each other, and to oblige them, if they live together, not to live as husband and wife, but as whore and rogue; so that, according to the late merry catch, "whore and rogue will no more be called husband and wife," but on the contrary, husband and wife will be called whore and rogue, and be actually treated as such by law.

But now, Sir, supposing that the legislature has power, or rather a right, to prescribe what forms and ceremonies it pleases to the marriage contract, and to declare every marriage void and null, where all the punctilios prescribed are not exactly observed, which, notwithstanding the authority of the reverend bench, I am far from being satisfied about, yet the Bill now before us I must be against, because I think it absolutely inconsistent with the public good of this kingdom. The other House had some reason, and some sort of right, to agree to it, because they represent themselves and those of their own body only, and because, should the Bill be passed into a law, they will thereby gain a very considerable and a very particular advantage; for they will in a great measure secure all the rich heiresses in the kingdom to those of their own body. An old miser, even of the lowest birth, is generally ambitious of having his only daughter married to a lord, and a guardian has generally some selfish view, or some interest to serve, by getting his rich ward married to the eldest son of some duke, marquiss, or earl; so that when a young commoner makes his addresses to a rich heiress, he has no friend but his superior merit, and that little deity called love, whose influence over a young lady always decreases as she increases in years; for by the time she comes of age, pride and ambition seizes possession of her breast likewise, and banishes from thence

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the little deity called love, or if he preserves a corner for his friend, it is only to introduce him as a gallant, not a husband. Therefore I may prophesy, that if this Bill passes into a law, no commoner will ever marry a rich heiress, unless his father be a minister of state, nor will a peer's eldest son marry the daughter of a commoner, unless she be a rich heiress.

From hence will appear, Sir, the particular advantage which the other House had in passing this Bill, and as they are not chosen by the people, we have often found that they shew no great regard to the interest of the people, when it happens to come in competition with the particular interest of their own body. But we in this House, Sir, represent the people, and as the interest of the people and that of the nation must always be the same, whatever advantage may accrue to our noble and rich families from this Bill, if it be against the national interest and that of the people, we ought not to consent to its being passed into a law. As to the national interest, I think it is allowed, that to prevent the accumulation of wealth, and to disperse it as much as possible through the whole body of the people, is a maxim religiously observed in every well regulated society. Riches is the blood of the body politic: it must be made to circulate: if you allow it to stagnate, or if too much of it be thrown into any one part, it will destroy the body politic, as the same cause often does the body natural: if this Bill passes, our quality and rich families will daily accumulate riches by marrying only one another; and what sort of breed their offspring will be, we may easily judge: if the gout, the gravel, the pox and madness are always to wed together, what a hopeful generation of quality and rich commoners shall we have amongst us? What a fine appearance will they make at the head of our army, should we ever happen to be invaded by a foreign enemy?

Besides this, Sir, the Bill plainly tends towards introducing into this country a distinction, which is inconsistent with our constitution. In other countries they have distinctions established and still kept up, between what they call their noblesse and their burghers, boors, or *roturiers*. In some countries a nobleman loses his estate if he marries below his rank; and in France one of their noblesse must not marry a *roturiere*. What is the consequence, especially in France? The marriages of their quality are something like the marriages of sovereign princes: the bride and bridegroom sometimes have never seen one another, till they meet to be married. Can any love or affection be expected between such a married couple? Accordingly, it for the most part happens: the bride goes to bed, perhaps, the first night with the bridegroom, but the next, if not before, with her gallant; and conjugal love or fidelity is now become so rare in that country, that it is deemed scandalous for a lady of quality not to have a gallant, or for a man of quality to be seen at any public diversion with his wife, unless his mistress be known to be in company. Can any man be desirous of introducing such customs into this country? Yet such customs will certainly be the consequence, as our quality and rich people will by this Bill acquire the absolute disposal of their children in marriage; for whilst the father is alive, even the court of Chancery is to have no power to authorize a proper marriage without his consent, let his refusal be never so whimsical or selfish.

In this country, Sir, we as yet know of no distinctions with regard to marriage: a gentleman's, a farmer's daughter is a match for the eldest son of the best lord in the land, and perhaps a better match than his father would chuse for him, because she will bring good and wholesome blood into the family. It is this equality that gives such spirit to our middling sort of gentlemen, and to our common people in general: it is this that makes the infantry of our armies superior to any in the world. And I believe it would no way derogate from the health, strength or spirit of our nobility, if, out of pure love, they married the daughters of our middling sort of gentlemen oftener than they do; for the offspring of conjugal love have generally more spirit, and more sense too, than the offspring of conjugal duty. But such marriages will be rendered almost impossible by this Bill. At present, indeed, our nobility are not quite so squeamish as those of France or Germany: they do not think, nor do our laws render it beneath them to marry the daughter of a tradesman or merchant, if she be one whose father has heaped up, by whatever means, a large sum of money, and has no child but her; and if the father was become rich before, or soon after she was born, she is generally bred up to be good for as little, and to be as proud, expensive, and whimsical as any lady of quality whatsoever.

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But, Sir, the most pernicious consequence of this Bill will be, its preventing marriage among the most useful, I will not scruple to say, the best sort of our people. The healthy, the strong, the laborious and the brave, I may justly call so. It is from their labour our quality derive their riches and their splendour: it is to their courage all of us owe our security. Shall we, for the sake of preventing a few misfortunes to the rich and great amongst us, make any law which will be a bar to the lawful procreation of such sort of men in this country? Gentlemen may talk what they will about the proclamation of banns, and about marriage being an affair of such importance that it ought to be gone about with caution and deliberation: but among the poor marriage never was, or ever can, be the effect of wisdom and foresight; even among the rich it seldom is so: and for this reason the ancient heathens feigned, that Minerva, who was the goddess of wisdom, seldom if ever chose to be present at any nuptial ceremony. Would a poor labouring man, who can by hard labour earn but a little more than is necessary for supporting himself in what he may think an elegant manner: would such a man, I say, incumber himself with a wife and children, if he were directed by nothing but the dictates of wisdom and foresight? it is certain he would not. But God Almighty has endued all animals, and mankind among the rest, with an ungovernable and irresistible passion, which leads them to the procreation of their species; and rather than not satisfy this passion, they will submit to any hardships, they will expose themselves to any dangers.

In this passion or instinct, Sir, as well as every other, we may see, and we ought to admire the wisdom of the creation; and as God Almighty certainly designed, that mankind should live in a married state, he has endued us with another more tender and elegant passion which we call love, and which often, if indulged, becomes as ungovernable and as irresistible as the other. It is to these two passions, and not to the dictates of wisdom, that most of the marriages among the poor are owing, and it is to these two passions that all the marriages both of rich and poor ought to be owing, though they are sometimes, especially among the rich, directed by the passions of avarice or ambition; but by this Bill, I am afraid, you will oblige the poor to take so long time to consider of what they are about, that many of them will get the better of their passions, pursue the dictates of wisdom, and prevent their repenting after, by repenting before marriage.

Among the poor, Sir, there are many marriages made, and even such as prove very happy, that never would have been made, if so much as one proclamation of banns had been necessary. I myself have made many such: gentlemen need not be surprised; for in the county where I sometimes reside, I have the honour to be a justice of the peace, and for the sake of my neighbours often act as such. Of course I have had several country wenches brought before me by the parish officers for being with child: she names the father, generally some young country fellow in the neighbourhood: he is immediately sent for, and confesses his being the father: the consequence is, he must either agree to marry her, or go to Bridewell: if he agrees to the first, I send them directly to church, and they are presently married. But if this could not be done in less than a month, or even a week, do you think any such marriage could happen? No, Sir: the young fellow would in that time march off, and leave both the girl and the parish in the lurch. Another case often happens: a young man by accident obtains a favour of a girl of character; a girl for whom he has a great and real regard: she proves with child: to save her character, and to atone for the injury he has done her, he resolves to marry her privately, so that none of the neighbours shall know but that they were married before the child was begot. But if this Bill passes he cannot do so, because he does not know how to get a special licence from the archbishop, or cannot well spare to pay for it: they must then be married at the parish church where one of them resides: the time of the marriage could not then be concealed; and if she should be brought to bed in four or five months, it would very much derogate from her character, and not a little hurt his own; the thoughts of which might make him resolve not to marry her at all, and we have no law for compelling him.

A multitude of cases might be put, Sir, for shewing the inconvenience of absolutely prohibiting, or annulling all private or sudden marriages. In short it seems to be flying in the face of Providence, by enacting, that that passion which God Almighty has made the cause, and which ought to be the cause of every marriage,

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shall not be the cause of any marriage in this country. And it is certain, that proclamation of banns and a public marriage is against the genius and nature of our people: it shocks the modesty of a young girl to have it proclaimed through the parish, that she is going to be married; and a young fellow does not like to be exposed so long before-hand to the jeers of all his companions; and to be married by licence costs more money than poor people can well spare. How fond our people are of private marriages, and of saving a little money, we may be convinced of by the multitude of marriages at Keith's chapel,* compared with the number at any parish church. I have made an enquiry, and I have been told, that at Keith's chapel there have been 6,000 married in a year, whereas at St. Anne's church, which is a very populous parish, and a very convenient church for private marriages by licence, there are seldom above 50 marriages in a year; yet the difference in the expence is not above 8 or 10*s*. but this is sometimes near equal to the whole stock of the married couple, and consequently no wonder they should be for saving it.

It is therefore evident, Sir, that this Bill, if passed into a law, will in a great measure prevent marriage among our laborious and industrious sort of people; and as to all our itinerant sort of men, it will render marriage almost impossible; for by this Bill a man must reside at least a month in one parish, before he can possibly be married without a licence, which he is not perhaps able to pay for. How, then, can our seamen, our soldiers, our bargemen who live in their barges, as many of them do, and our waggoners who live at the inns where their waggons put up: I say, how can any of these men marry without a licence? Nay, even with a common licence they cannot marry, unless they are to be married to a woman who has resided a month in the parish where she then is. Must not every gentleman thus see, what difficulties and discouragements this Bill will throw in the way of marriage among the poor; and indeed, I must observe, that the humour of preventing the poor from marrying prevails too much of late in all parts of this country: our numerous Bills for inclosing commons have a great tendency this way; and those wise parish politicians, called parish-officers, are every where destroying cottages, because they encourage the poor to marry and beget children, which may become burthensome to the parish. Do these wiseheads think, that labourers, servants, common seamen and soldiers are not necessary for the support and security of this kingdom? Or do they think, that the passion I have mentioned, which has been implanted by the Author of nature in all creatures, for the procreation of each respective species, is not as strong and as violent among the poor as the rich? Sir, I will be bold to say, it is equally strong, and perhaps more effectual for the end intended; and if you render marriage among that sort of people so difficult and expensive, you must by public authority set up a common stew in every parish: if you do not, you will be the cause of the murder of many infants, either after they are born, or by abortion, before they come to the time of their birth: nay, I tremble to think of, I disdain to name the nasty, the abominable crime, which this Bill may be the cause of rendering as frequent in this country as it is in too many others.

And for what, Sir, are we to bring all these mischiefs upon our native country? That my young lord, or the young rich squire, forsooth, may not be induced to marry his mother's maid, or a neighbouring farmer's daughter, who may probably make him a better wife and render him more happy, than if he had married the richest heiress in the kingdom: or that young miss may not run away with her father's footman, who may make her a better husband, than any lord or rich squire she, or even her father, could have chosen. Such marriages, I shall grant, Sir, are a great disappointment to the avarice or ambition of the parents; but they are rather of advantage than of prejudice to the community; and if the married couple are unhappy, it generally proceeds from the cruel, unnatural, unforgiving temper of the parents, which our laws should rather endeavour to rectify than encourage. But if this Bill be passed into a law, the parents may relent, the parents may forgive; but 'lex est res surdæ et inexorabilis': the law will neither relent nor forgive: the married couple must be looked on as whore and rogue, and their children born before they are again married must all be bastards; for, contrary to the custom of all other countries, a future marriage does not by our law legitimate the children born before it; therefore if this Bill passes, I hope our law will in this

* A Clergyman's Chapel in the Fleet.

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respect be altered, and made more agreeable to common sense.

But supposing, Sir, that a young gentleman or lady's marrying below their rank were as great a misfortune to their families as it is generally deemed to be, it may in a great measure be prevented by a proper education. If due care be taken to implant right notions in their early youth, and to learn them betimes to curb their passions, they will not consort with people below their rank so familiarly as to fall in love with any of them, or they will stifle the passion in its birth; and unless that passion, by indulgence, becomes violent, no such marriage can ever happen. And supposing that even by this means the misfortune could not be prevented, yet it does not follow, that we must prevent it by a public law. How many great and ancient families are daily ruined, and the family estate squandered, by the extravagance of one man who happens to be last in the intail? Should we for this reason pass a Bill for rendering intails perpetual? Our lawyers would all cry out, the law cannot endure perpetuities. I could mention many other misfortunes that cannot be prevented by public laws, but must be left to the education, the morals, and the customs of the people; and this of clandestine marriages I take to be a misfortune of this kind. They are sometimes pernicious, but this law would be more pernicious than they ever can be, and it is most flagrantly unjust.

The hon. and learned gentleman talked, Sir, of one of our old laws having laid the penalty upon the most innocent: I am sure, you do so by this Bill in the most glaring manner; for you lay it upon the children before they are born; you declare them bastards, and for ever incapable of succeeding to the estate either of their father or mother. And as to the fair sex, instead of being favourable for them, I am certain it would prove a snare for entrapping many of them to their ruin. Such a law as this has proved so in Ireland: it has already produced some of the most shocking barbarities. A young woman is but too apt by nature to trust to the honour of the man she loves, and to admit him to her bed upon a solemn promise to marry her. Surely the moral obligation is as binding as if they had been actually married: but you are by this Bill to declare it null and void, even though in writing. Nay, if he has actually married her, but not in the form by you prescribed, you are to declare both the obligation and the marriage null and void. Is not this taking upon you to annul the laws of God? There is a great difference, Sir, between declaring that no action shall lie upon an obligation not duly attested, and declaring that obligation null and void. The former a legislature may do, for preventing vexatious law suits; but the latter no human legislature can, or ought to pretend to do.

We were asked, Sir, by the hon. and learned gentleman, why a man, when he comes of age, may not be entitled to avoid a marriage contract, as well as every other contract he made while he was under age, without the consent of his parents or guardians? The reason is very plain. When a man avoids a contract so made whilst under age, he is obliged to restore what he got by virtue of that contract; but if a young fellow of 19 or 20 marries a woman and consummates that marriage, he cannot restore, and therefore the law of God, and hitherto the law of man, obliges him to abide by that contract. And the reason why the canons allow a boy at 14 to avoid a marriage made by him before that age, is, because till then he is supposed not capable to consummate the marriage. But I will ask the learned gentleman, in my turn, whether a young fellow of 18 or 19 may not be guilty of, and punished for a rape? And I will say, that there is the same difference between a man who deflowers a girl under the pretence of a marriage, which he knows to be void in law, and a man who ravishes a girl, that there is between a man who cheats me out of my purse by false dice, and a man who robs me of it upon the highway. The former in both cases is the greatest criminal of the two, though not so severely punished by law; but surely the least punishment that ought to be inflicted by law upon the first sort of ravisher, is to oblige him to abide by the marriage he has entered into. And whilst I am upon this subject, I must observe, that you are to do by this Bill what never yet was done by the laws of God, the laws of nature, or the laws of man: you are with respect to marriage to make the age of consent the same in women as it is in men; therefore I must say, that there never was, I believe, a Bill brought into parliament, that made so free with the laws of nature and of God, as the Bill does which is now, I hope for the last time, under our consideration.

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Now, Sir, with regard to the preventing of law suits about the validity of a marriage, or the legitimacy of children, is there any thing more plain than that they will be multiplied exceedingly, and the proof rendered much more difficult by this Bill, should it be passed into a law. At present the marriage is easily proved whilst either of the parties is alive, and after the parents are both dead, I am told, that the children are not obliged to prove the marriage, if their father and mother lived together as man and wife, and were commonly reputed to be so. But if this Bill passes, not only the marriage must be proved, but it must be proved to be such a marriage as was not void by this law: that is to say, that all the punctilios prescribed by this Bill were duly observed. Thus a man may get rid of his wife, or a wife of her husband, because after a few years it cannot be proved, that they have resided a month in the parish before the banns were proclaimed or the licence granted. Thus a lady may be disappointed of her dower, because her husband neglected, at the time of their marriage, some of the requisite punctilios. And in the next age, several gentlemen may perhaps be ousted of their estates, because their grandfather and grandmother were not married according to all the forms prescribed. For there is no time limited for commencing such suits; so that one would think the Bill was designed for multiplying law suits; and for this reason, I make no doubt but that it will be a favourite Bill among all the lawyers without doors, though as to those within, I am sure, that this will be no argument in its favour.

Lastly, Sir, as to polygamy, it is equally clear, that this Bill will render that crime much more frequent; for cunning fellows will always omit some one of the forms prescribed, on purpose, that if they are prosecuted, they may shew that one of the marriages was void in law: and you cannot convict a man of having two wives, when the law expressly says, that one of them is not his wife. Then as to our rakish young lords and squires, I am persuaded, that many of them will marry a dozen or a score oft-times before they come of age; and they will meet with girls even of character, that will agree to such a marriage, because the marriage, and their real or pretended ignorance of the law, will be an excuse for their breach of chastity, and every one will hope, by her conduct and the charms of her person, to secure him as her husband for ever. That this will be the use made of the Bill by many, I am fully convinced; and therefore as a facetious gentleman said of a Bill to the same purpose, and with the same title, which was brought into this House a good many years ago, I think if you do pass this Bill, you should alter the title of it, and instead of a Bill to prevent, you should call it a Bill to encourage clandestine marriages.

In short, Sir, not only the general scope of the Bill, but almost every clause in it, is in my opinion, big with mischievous consequences; therefore, I hope, it will be dropt in the most respectful manner, by committing it for this day two months; for if this is not previously agreed to, I must give my negative to the motion, which I should be sorry to do; and if I am obliged to do so, I hope, it will not be looked on as any want of respect to the judges who brought it in, or to any lord who promoted its being passed by the other House, for all of whom I have the greatest regard; but whilst I have the honour to sit here, I will never allow my regard for any one to bias me in giving my vote upon any question that comes before us.

Lord *Barrington*:

Sir; the hon. gentleman who spoke last was very much in the right when he supposed, that in opposing this Bill he had all the strongest passions of mankind to combat against; and if he had supposed, that he had likewise the reason and common sense of mankind to combat against, he would have been equally in the right; for surely it is not only the interest but the duty of every parent to take care, that his child shall not contract a scandalous or an infamous marriage, and if he cannot do this by his paternal authority, the laws ought to assist him as far as possible: it is likewise the interest of every society that all marriages should be publicly known; and it is the interest of every individual, not to run headlong into a contract, which is the most important of any they can ever enter into, and which, without a high crime, can never be dissolved, during the lives of the two parties concerned, no not even though both should agree to have it dissolved. For these reasons, in all well regulated societies it has been established either by law or custom, that the marriage contract should be entered into in a more public and solemn manner, than is necessary in any other contract; and in all Christian

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Now, Sir, with regard to the preventing of law suits about the validity of a marriage, or the legitimacy of children, is there any thing more plain than that they will be multiplied exceedingly, and the proof rendered much more difficult by this Bill, should it be passed into a law. At present the marriage is easily proved whilst either of the parties is alive, and after the parents are both dead, I am told, that the children are not obliged to prove the marriage, if their father and mother lived together as man and wife, and were commonly reputed to be so. But if this Bill passes, not only the marriage must be proved, but it must be proved to be such a marriage as was not void by this law: that is to say, that all the punctilios prescribed by this Bill were duly observed. Thus a man may get rid of his wife, or a wife of her husband, because after a few years it cannot be proved, that they have resided a month in the parish before the banns were proclaimed or the licence granted. Thus a lady may be disappointed of her dower, because her husband neglected, at the time of their marriage, some of the requisite punctilios. And in the next age, several gentlemen may perhaps be ousted of their estates, because their grandfather and grandmother were not married according to all the forms prescribed. For there is no time limited for commencing such suits; so that one would think the Bill was designed for multiplying law suits; and for this reason, I make no doubt but that it will be a favourite Bill among all the lawyers without doors, though as to those within, I am sure, that this will be no argument in its favour.

Lastly, Sir, as to polygamy, it is equally clear, that this Bill will render that crime much more frequent; for cunning fellows will always omit some one of the forms prescribed, on purpose, that if they are prosecuted, they may shew that one of the marriages was void in law: and you cannot convict a man of having two wives, when the law expressly says, that one of them is not his wife. Then as to our rakish young lords and squires, I am persuaded, that many of them will marry a dozen or a score oft-times before they come of age; and they will meet with girls even of character, that will agree to such a marriage, because the marriage, and their real or pretended ignorance of the law, will be an excuse for their breach of chastity, and every one will hope, by her conduct and the charms of her person, to secure him as her husband for ever. That this will be the use made of the Bill by many, I am fully convinced; and therefore as a facetious gentleman said of a Bill to the same purpose, and with the same title, which was brought into this House a good many years ago, I think if you do pass this Bill, you should alter the title of it, and instead of a Bill to prevent, you should call it a Bill to encourage clandestine marriages.

In short, Sir, not only the general scope of the Bill, but almost every clause in it, is in my opinion, big with mischievous consequences; therefore, I hope, it will be dropt in the most respectful manner, by committing it for this day two months; for if this is not previously agreed to, I must give my negative to the motion, which I should be sorry to do; and if I am obliged to do so, I hope, it will not be looked on as any want of respect to the judges who brought it in, or to any lord who promoted its being passed by the other House, for all of whom I have the greatest regard; but whilst I have the honour to sit here, I will never allow my regard for any one to bias me in giving my vote upon any question that comes before us.

Lord *Barrington*:

Sir; the hon. gentleman who spoke last was very much in the right when he supposed, that in opposing this Bill he had all the strongest passions of mankind to combat against; and if he had supposed, that he had likewise the reason and common sense of mankind to combat against, he would have been equally in the right; for surely it is not only the interest but the duty of every parent to take care, that his child shall not contract a scandalous or an infamous marriage, and if he cannot do this by his paternal authority, the laws ought to assist him as far as possible: it is likewise the interest of every society that all marriages should be publicly known; and it is the interest of every individual, not to run headlong into a contract, which is the most important of any they can ever enter into, and which, without a high crime, can never be dissolved, during the lives of the two parties concerned, no not even though both should agree to have it dissolved. For these reasons, in all well regulated societies it has been established either by law or custom, that the marriage contract should be entered into in a more public and solemn manner, than is necessary in any other contract; and in all Christian

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societies it has been found necessary to render it sacred by adding to it a religious ceremony, without which no marriage can now be absolutely binding. But unless this religious ceremony be solemnized by the persons appointed, and according to the forms prescribed by the laws of each respective society, it adds nothing to the sanctity of the marriage contract, nor is the marriage vow to be deemed a vow, any more than an oath would be by law deemed an oath, if administered by one who had no power to administer an oath, or in a form not warranted by the laws and customs of this kingdom.

Now, Sir, if gentlemen will but attend to the laws we have now in being, they must see, that all these things have already been by them in a great measure taken care of. No marriage can be good unless it has been solemnized according to that religious ceremony prescribed by that sect of religion to which the contracting parties belong, nor can any marriage be regularly entered into without a previous proclamation of banns, or a licence for dispensing therewith; and originally it was provided, that the banns should be proclaimed three different Sundays or holidays in the church or churches where the parties resided, where likewise the marriage ceremony was to be performed, nor was this ever dispensed with by licence but upon good cause shewn, and upon proof that the parents or guardians had consented, if either of the parties were under age. By this regulation it was effectually provided, that every marriage should be publicly known and deliberately entered into; and no marriage could be entered into against the will of the parents or guardians, because they could forbid the banns, if the party was under age, or if they could shew any other good cause why the marriage should not be solemnized. But this regulation has in a great measure gone into disuse, or methods have been found to evade it; and therefore we must either be of opinion, that our ancestors had no judgment of what was proper for the good of society, or we must think, that it is now necessary to revive it, and to revive it in such a manner as may render it effectual.

I believe no gentleman will venture to arraign the judgment of his ancestors, because through every age to this very day it has been approved of, and laws made from time to time for enforcing it. Even so late, Sir, as in the 10th of queen Anne, a law was made for enforcing it, as has already been observed by the learned gentleman who made you this motion; and as this law has been found to be ineffectual, I cannot suppose that the necessity of a new law will be disputed. I must suppose, that the only dispute will be about the propriety of what is proposed by this Bill; and the principal objection seems to be against that of declaring the marriage void, if not celebrated according to the forms prescribed by the Bill. This, it is said, will derogate from that superstitious opinion which the vulgar have of the sanctity of the marriage ceremony; but I never before heard that the rendering it necessary to go about any religious ceremony with solemnity and deliberation, would derogate from that awe and reverence which the people have for it: on the contrary, we know it adds to it. Do not we every day hear of complaints made against our manner of administering oaths, on account of their being administered with so little solemnity? Is not this assigned as one of the causes why perjury is become so frequent amongst us? And I believe, no man will say that the manner of performing the marriage ceremony in the rules of our prisons, or at Keith's chapel, can contribute towards making the vulgar believe, that there is any sanctity in the marriage contract. Gentlemen may as well argue, that if a ploughman should take upon him to marry people in a neighbouring barn, the law ought not to declare such marriages void, lest it should derogate from the opinion which the vulgar have of the sanctity of the marriage contract; and yet as to the moral obligation of the marriage vow, it is certainly in conscience as binding when made before a ploughman in a barn, or between the two parties without the presence of any witness whatsoever, as when made in a parish church, before the parson and in the face of the congregation.

This vow, Sir, as to its moral obligation, we do not pretend to declare void: we are only by this Bill to declare, that it shall have no legal effects, unless made in a legal manner; and this is what is often done in many other cases, by the laws not only of this country but of every country in the world. We do not therefore by this Bill pretend to dispense with any oath or vow whatever; on the contrary, if a simple ignorant woman should be drawn into an irregular and void marriage, and in consequence thereof should cohabit with her supposed husband, she would

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have a good action against him, notwithstanding this Bill, in case of his refusal to marry her in a regular manner, and upon such an action the jury would certainly give her signal damages, if she was a woman of good character and he in affluent circumstances. We are therefore by this Bill only to prevent any legal effect of a scandalous or infamous marriage, which a person may be deceitfully and rashly drawn into; and after many trials it has been found by experience, that this cannot be done by any method but that of declaring all marriages void, as to any legal effect, that shall not be entered into and solemnized according to the rules prescribed by this Bill; which rules are no other than such as were by the original Christian institution of marriage thought necessary, and regularly are still required by the laws we have now in being; and that these rules may be known by all women as well as men, particular care is taken by the Bill, that the law shall be promulgated in a very extraordinary manner, by enacting, that it shall be publicly read in all parish churches and public chapels on some Sunday in each of the four months before it begins to take place, and four times a year for two years afterwards; so that women will be less liable to be deceived by a sham marriage, after this law takes place, than they are by our law as it stands at present.

But what surprises me most, Sir, is that such exceptions should be taken to this Bill, by those who cannot be ignorant of the law in this country, with regard to the administration of oaths and the punishments inflicted on perjury. Does not every gentleman know, that by our law it is highly criminal in any man to administer an oath, if he is not duly authorized to do so, and that an oath so administered is so far from being deemed an oath, that a false oath taken before a man who has no power to administer the same, is neither perjury or false-swearing, nor any way punishable as such? Is it not as necessary that no man should be allowed to administer the marriage oath or vow, but those that are lawfully authorized to do so? And is it not as consonant to reason that the marriage oath or vow, when administered by one who has no authority to do so, should have no legal effects, nor be deemed a marriage oath or vow, as that any other oath so administered should not be deemed an oath, or attended with any legal effects? Has not the legislature as much power to prescribe after what method, and by whom, the marriage oath shall be administered, as it has with respect to any other oath? And to prevent men and women from living together in a continued state of fornication, is it not necessary that every marriage should be publicly known?

Neither the power of the legislature as to the enacting part of this Bill, nor the necessity of its being passed into a law, can therefore, I think, Sir, be in the least doubted: and as to the bad consequences apprehended from it, they are, in my opinion, altogether chimerical. There is not the least ground to imagine, that it will any way tend towards introducing an aristocracy; for it gives the rich no greater power than they had before, no not even over their own children after they come of age, and before that time neither man nor woman ought to be bound by any contract they make: nay, I believe it would contribute greatly to the health and strength of our people in the next generation, if a law were made for preventing any man or woman from marrying before the age of 21, even with the consent of parents or guardians; for we have the best authority for believing, that early marriages have contributed towards shortening the life of man; as from the sacred scriptures we may learn, that before the flood men were near, nay often above 100 years of age before they married, and that afterwards the life of man was gradually shortened in proportion as they were sooner married. To prevent a young gentleman or young lady being rashly and inconsiderately married before being of age, can be therefore of no prejudice to society, or to the health and vigour of the next generation; and as the Bill gives no power either to parents or guardians to prevent their marrying whom they please after the age of 21, or to force them to marry before that age, it can no way add to the power of any rich man, or any set of rich men in the kingdom.

Then, Sir, as to the lower class of people, I shall grant, that they generally chuse to be married in an irregular rather than a regular manner, and many of them, I believe, would chuse to cohabit together, if it were not scandalous, without any marriage at all; but is this a reason why either should be permitted by law? for if their living together as man and wife, without any marriage at all, were once permitted by law, it would grow so common that it

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would soon cease to be scandalous, and so at last it would become general, if not universal, which, I am persuaded, would neither contribute to the good of society, nor to the propagation of the species, the two great ends we should have in view when we are making any laws relating to marriage. We are not therefore now to consider what the vulgar would chuse, but what will most contribute to these two great ends; and from what happens in all the country places in the kingdom we may conclude, that our rendering it necessary for every one to be married in a regular manner, would no way prevent or lessen the number of marriages amongst the vulgar. In those places they have no Fleet parson nor Keith's chapel to repair to; and yet we find that marriages are as frequent there, in proportion to the numbers of people, as they are in this great city. This shews that we may for this trust to those passions, which the hon. gentleman was pleased to observe, had been implanted in mankind by our Creator; and that if we leave a poor labouring man or woman no other way of satisfying those passions but by a regular marriage, even the most considerate of them will submit to it, let the consequences be what they will: indeed, if we consider that poor people have no servants, and often few or no friends, to take care of them in case of sickness, we must conclude, that without any regard to these passions, but merely from prudential considerations, a state of marriage is more necessary for them than for people of opulent fortunes; and accordingly we find, they more generally chuse it.

As to our seafaring and other itinerant sorts of men, Sir, there are few or none of them but have a residence somewhere or other; for a seaman's residence will always be understood to be in that parish where he usually resides when he is on shore, and a waggoner or bargeman's residence must be allowed to be at that place to which his waggon or barge belongs; and if they are to be married by licence, they can be under no difficulty, because they may be married at the parish church where the bride has resided for a month preceding. From hence, therefore, no objection can be raised against the Bill; and as little can any objection be drawn from the consequence of an irregular and void marriage with respect to the children. We may as well say, that the incapacities which bastards are by law laid under, are punishments upon the most innocent, as to say, that the declaring of an irregular marriage void is a punishment upon the most innocent. These incapacities were introduced not as punishments upon the children, but as incentives to marriage, and for the same purpose they may and ought to be extended to children born after a clandestine and irregular marriage. Bastardy, I shall grant, is a misfortune upon a child born out of lawful wedlock; but it can no more be called a punishment than that of a child being born without a leg or an arm; and will any one say, that in order to prevent this misfortune we ought to remove all the incapacities of bastardism, or that we ought to declare every marriage good and lawful, though never so irregularly or perhaps whimsically solemnized?

With regard to the law as it stands at present, I am really, Sir, surprised, that more innocent girls are not drawn in by sham marriages than we find there are, because it is now so very difficult to determine what is, or is not a good marriage, and still more difficult to convict a man of polygamy, who has been married in a clandestine manner. But if this Bill should be passed into a law, it will be so easy to know all the requisites for rendering a marriage lawful and binding, that no woman can be deceived, if she is not willing to be so, and for such women the law ought not to provide any relief, because they deserve none. Therefore, should this Bill be passed into a law, there will not be the least danger of a young rake's marrying several times before he comes of age, or even so much as once, without the consent of his parents or guardians; because no woman can then be ignorant of the marriage being absolutely null and void; and should he meet with a woman so ignorant, or one who pretended to be so, it would be very difficult for him to find a parson to marry them, or a church to be married in.

I hope, I have now shewn, Sir, that there is no solid foundation for any of the objections made against this Bill; and as the hon. gentleman himself confessed, that our love for our children, our compassion for betrayed innocence, and our regard for the honour of our families, all plead strongly for our passing it into a law, I make no doubt of obtaining even his concurrence for our sending it to a committee; especially, as that respect, which we ought to have for the other House,

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seems to require our giving it a little farther consideration.

On a division the question was carried in the affirmative by 116 to 55.*

Whereupon it was committed to a committee of the whole House, for that day sevennight, and all the members in and about town were ordered to attend. Accordingly May 21, the House resolved itself into the said committee, as it likewise did, on the 23rd, the 25th, the 28th, the 30th, and the 31st, in which there were many long debates, that of the 28th having held till three o'clock next morning; and the Bill was almost entirely altered, both by the addition of new clauses, and the alteration of every one of the old. June 1, the lord Dupplin according to order made the report, when some of the amendments were disagreed to, and the rest were, with amendments to some of them, agreed to; and several clauses were added, and several amendments were made to the Bill.*

* Walpole Papers. Archbishop Herring to Horatio Walpole.

"Lambeth House, May 17, 1753.

"Dear Sir; if the following letter be considered as wrote to a senator, I am sensible it were impertinent if not presumptuous; if as to a friend, it will plead a little to his indulgence.

"I heard a little of the debate in the House of Commons on Monday last, and have conceived hopes, from the issue of it, that the Bill against Clandestine Marriages will return to the Lords, and receive the confirmation of the legislature. There is one clause in it, reserving a part of the archbishop of Canterbury's prerogative, as to granting special licences, which, it seems, was natural to think would give room for observation: and, indeed, very justly, as the power there reserved, if not lodged in safe hands, might, in a great measure, defeat the good effect of the whole Bill. I was told, that you was pleased to make that observation, and to enlarge upon the mischievous consequences just now suggested.

"By the favour of the king I am now entrusted with the execution of that power; and if I found it detrimental to the public, or at all likely to interfere with the good designs of this act, should be ashamed to appear as an advocate for its continuance.

"The design of the legislature, in leaving such a power in being, is very apparent by the constant use and application of it; and I suppose, as it was judged proper to preserve it, it was thought it could no where be so safely lodged as in the hands of one whose high station and character must put him above all corruption, and who received no emolument to himself from the issuing of those licences. Practice has confirmed the wisdom of that parliament in this respect; and I question, whether the registers of the office afford a single instance of a mischievous and corrupt abuse of this power, in the hands of the archbishops, since the Reformation. I am told they do not.

"You know me very well, Sir, and how little my nature carries me to aim at high powers and prerogatives; and yet when I find them vested in my character, never abused by my predecessors, nor by myself, it would not, perhaps, sit so easy upon me, to find myself divested of them without some very great and important reason; much greater, and more important, than a possibility (for probability there is none from past times,) that the powers may come to be abused. I think it would not shew much loftiness of spirit to be a little anxious to guard against such indignity, which would be the more apparent too, if, to obviate the mischief of clandestine marriages, it should be found necessary, in the same act, to put a stop to the scandalous practices at May Fair and the Fleet, and guard against the corruptions of the archbishop of Canterbury's prerogative. It would naturally hurt an archbishop to see his court classed with such infamous company.

"I take the liberty, Sir, to suggest these few things to you in the character of a friend. Senators must be above all partialities; and yet, as the world goes, and always has gone, there are a thousand circumstances in the conduct of public affairs, which will admit of great indulgences in point of time, and a manner of doing what is right. She might deserve to be taken down; but it was a mortification to the poor bird in the fable, that the arrow which wounded her was fledged from her own wing. There are times, indeed, when friendship becomes criminal by its influence: but those are times of deep moment; in the common affairs of life, there is great room for her operation.

"I am afraid, dear Sir, you will think me much too serious in this matter, but I write only to yourself, and if you think it will be impossible, as a good patriot, to acquiesce in this power being left vested in the see of Canterbury, I shall applaud your integrity, but shall not help wishing that the blow had come from some other hand; and shall look upon it as an infelicity, that this diminution of the honour of the see should happen when I was possessed of it, and without any instances of corruption proved, or that I can hear alledged, either in the times of my predecessors or my own."

* The Hon. Horace Walpole to the Hon. Henry Seymour Conway.

"Strawberry Hill, May 24, 1753.

"It is well you are married. How would my lady A—— have liked to be asked in a parish-church for three Sundays running? I really believe she would have worn her weeds for ever, rather than have passed through so

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June 4. On the third reading of the Bill the following debate took place:

Col. *George Haldane* said:

Sir; upon the second reading of this Bill I was one who gave my vote for its being committed, which I did not out of any respect to the other House, for I do not think we owe them any such respect, as they often upon the second reading reject Bills sent up by us, and some which have been very unanimously and deliberately agreed to in this House. I did so because I approved of the principle upon which the Bill was pretended to be founded. I always thought that clandestine marriages, especially such as are scandalous or infamous with respect to either of the contracting parties, should be prevented, if it could be done without producing greater evil, which is that of preventing marriage itself; therefore I was for sending the Bill to a committee in order to see if it could be so amended as to prevent its producing this evil, to which it plainly appeared to be liable when it made its first appearance in this House. Accordingly it has been very much altered in the committee, but far, I think, from being amended; for it is still liable not only to this evil, but to almost every bad consequence that could at first be apprehended from it, of which that of its tending towards introducing an aristocracy is one of the most apparent.

It is a maxim allowed, Sir, by all the best writers upon government, that power or dominion will always follow property: and if we consider how vastly the number of our nobility has been increased since the beginning of this century, what extensive possessions are already vested in that body, what new possessions may be added by the marriage of heiresses, and the now so frequent nobilitating of rich commoners, and how independent of the crown all our landholders, especially our nobility, have been rendered, ever since the abolishing of military tenures, and the suppressing of

impudent a ceremony! What do *you* think? But you will want to know the interpretation of this preamble. Why, there is a new Bill, which, under the notion of Clandestine Marriages, has made such a general rummage and reform in the office of matrimony, that every Strephon and Chloe, every Dowager and her H——, will have as many impediments and formalities to undergo as a treaty of peace. Lord Bath invented this Bill, but had drawn it so ill, that the Chancellor [Lord Hardwicke] was forced to draw a new one—and then grew so fond of his own creature, that he has crammed it down the throats of both Houses—though they gave many a gulp before they could swallow it. The duke of Bedford attacked it first with great spirit and mastery, but had little support, though the duke of Newcastle did not vote. The lawyers were all ordered to nurse it through our House; but except the poor attorney general [sir Dudley Ryder,] who is nurse indeed to all intents and purposes, and did amply gossip over it, not one of them said a word. Nugent shone extremely in opposition to the Bill, and, though every now and then on the precipice of absurdity, kept clear of it, with great humour and wit and argument, and was unanswered—yet we were beat.

"Last Monday it came into the committee: Charles Townshend acted a very good speech with great cleverness, and drew a picture of his own story and his father's tyranny, with at least as much parts as modesty. Mr. Fox mumbled the Chancellor and his lawyers, and pinned the plan of the Bill upon a pamphlet he had found of Dr. Gally's, where the doctor, recommending the French scheme of matrimony, says, 'It was found that fathers were 'too apt to forgive.' 'The Gospel,' I thought, said Mr. Fox, 'enjoined forgiveness; but pious 'Dr. Gally thinks fathers are too apt to forgive.' Mr. Pelham, extremely in his opinion against the Bill, and in his inclination too, was forced to rivet it, and, without speaking one word for it, taught the House how to vote for it; and it was carried against the Chairman's leaving the chair by 165 to 84."

"Arlington Street, May 29, 1753.

"I am come to town for a day or two, and find that the Marriage Bill has not only lasted till now in the committee, but has produced, or at least disclosed extreme heats. Mr. Fox and Pelham have had very high words on every clause, and the former has renewed his attacks on the Chancellor under the name of Dr. Gally. Yesterday, on the nullity clause, they sat till half an hour after three in the morning, having just then had a division on adjournment, which was rejected by the ministry by above 30 to 70. The Speaker [Arthur Onslow], who had spoken well against the Clause, was so misrepresented by the Attorney General, that there was danger of a skimmington between the Great Wig and the Coif, the former having given a flat lye to the latter. Mr. Fox, (I am told) outdid himself for spirit and severity on the Chancellor and the lawyers. I say, I am told; for I was content with having been beat twice, and did not attend. The heats between the two ministers were far from cooling by the length of the debate. Adieu! you did little expect in these times, and at this season, to have heard such a parliamentary history! The Bill is not near finished; Mr. Fox has declared he will dispute every inch of ground."—Lord Orford's Works, 4to. vol. 5, p. 35.

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the court of Wards and Liveries: I say, if we consider these things, Sir, we cannot avoid being apprehensive lest the whole power of our government should soon center in the other House, or at least so much as to set it above being controlled by the crown and the commons united together. But why should I say the crown and the commons? The commons, Sir, have no power, no constitutional being, but what they have by their representatives, in this House; and if we consider what a large share of property the other House has in every county, and what a number of our cities and boroughs are become absolutely dependant upon some neighbouring peer, have we not reason to fear, lest the other House should become the absolute disposers of most of the seats in this? For this purpose the sole power of being the ultimate and supreme judges in all cases of property, which we seem now to have yielded to them, must always be of great use; and from experience we know that our standing order against the peer concerning himself in the election of members to serve for the commons in parliament, in an order which even now we find it impossible to carry into execution; much less will it be possible to carry it into execution after a majority of us have been returned by the influence of the other House: nay, I do not know but I may live to see it put to the vote here, and carried by a great majority, to have this order erased out of our Journals, as being disrespectful to the other House; for the respect due to it is already, I find, made use of as an argument for biassing the votes of gentlemen in this.

Now, Sir, if the other House should once get into their possession the power of electing or rather of nominating a majority of the members of this, I shall submit it to the consideration of gentlemen, and deserves the consideration of every commoner in the kingdom, whether our constitution would not be entirely overturned? They might perhaps, continue the shadow of a monarchy; but our king would be under the necessity of entirely submitting to be governed by the leaders of the other House; and this would add to their influence at all elections of members to serve in this, because they would thereby get the executive part of our government into their hands, and consequently the nomination to all posts and employments in the state, in which we may suppose their sons, their brothers, and even their valets and footmen would not be forgot. Would our king in such case be any thing more than a doge of Venice? Would any commoner in England have a resource against the oppression of a neighbouring lord? And as our nobility would always take care to have some of themselves at the head of our army and navy, it would be impossible for the king or people to recover themselves out of their hands, or to restore the constitution without a civil war: which, if successful on the side of the people, might probably end in subjecting us to an absolute and arbitrary monarch: and if unsuccessful, would probably end in abolishing even the shadow of what is monarchical or democratical in our form of government.

Upon this occasion, Sir, I cannot avoid observing the great difference between that assembly in which the constitutional power of our nobility is lodged, and that in which the constitutional power of the Commons is lodged. The other House is a certain, fixt, and unchangeable assembly, in which every one of our nobility has a seat established hereditarily in his family; whereas this House consists of a changeable, fluctuating assembly of men, no one member of which is absolutely certain of having a seat here in the next parliament. The former, therefore, may probably unite in augmenting the power of their assembly at the expence of our constitution; because every member of it thereby increases the power and the consequence of his family for ever; but no member of this House can well be supposed to concur in any unconstitutional design for increasing the power of this assembly, because it is so far from increasing the power or consequence of his family, that he himself may suffer by it, in case he should not be returned a member of the next parliament. And for the same reason the other House is much more capable of concerting and steadily pursuing ambitious and unconstitutional designs, than this House can ever be supposed to be; to which I must add, that by a law passed since the Revolution, it is rendered much more difficult for the crown to prevent the prosecution of such designs.

When I say this, Sir, I believe every gentleman will suppose I mean the law passed in the 7th of king William, by which it is provided, that upon the trial of any peer or peeress for treason or misprision, all the peers who have a right to sit and vote in parliament, shall be duly

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summoned to appear at such trial and to vote at the same. I shall readily grant, that before the passing of this act, the crown had too great a power as to the summoning of those peers who were to appear and vote at such trials; but it must likewise be granted, that by this law the body of peers have got a power of protecting any one of their number, and would probably make use of this power, if they should ever form a design of incroaching both upon the crown and the Commons, and ingrossing to themselves alone the whole power of our government; and such a design as this they may very probably form, if they should ever acquire such an influence over our elections, as to be able to return a majority of the members of this House; for they would probably prevail with most of the leading men in this House to concur in such a design, by promising to adopt them into the order of nobility; and they have the establishment of the present aristocratical and tyrannical form of government in Venice as a precedent for directing their method of proceeding.

Until after the end of the 13th century, Sir, every citizen of Venice of any substance had a vote in their great council, and a chance of being chosen into the highest offices of the state, as well as being protected by that council against the greatest man in their city; but a few of their richest citizens having then got too much influence in their great council, they prevailed with it to pass a law, by which it was enacted, that none but such a certain number of families should for the future have a right to appear or vote in their great council; from which time those families assumed the name of noble Venetians, and none but they, or such as they have since been pleased to adopt, have now any share in the government of that republic; for as to all the rest of the people, they are as great slaves as the people are in Turkey, and they are treated with more insolence by their nobles, than the Turks are by their bashaws; which would probably be our case, should our nobility be ever able to engross the whole power of our government to themselves alone; and it is certain that we are in more danger of it, than the Venetians were at the time this change in their form of government was established; for they had then no nobility among them, much less a body of nobility distinct from the people, acting in an assembly by themselves alone, and possessed of a negative in their legislative power, as well as the last resort in the jurisdictive.

Sir, when we consider the circumstances and condition of the state and people of Venice when this remarkable change in their form of government was brought about, we have reason to be surprised how it was possible to concert such a design, much more how it was possible to carry it into execution; and we can ascribe it to no cause but that of their having allowed a few families to accumulate too great a share of the wealth of their country: this, therefore, as well as a great many other instances, must convince us, that there is no preserving a form of government which has any thing of the democratical in its constitution, but by dispersing, as much as possible, the wealth and property of the society through the whole body of the people, and by preventing, as much as possible, every custom or regulation that may enable those, who have already too much, to accumulate more. That this would be one of the bad effects of the Bill now under our consideration, if passed into a law, I think no man can contest; for it is certain, that parents generally have no consideration for the affections of their child. Let a man be but rich, he may be deformed, he may be brutish in his nature, nay, he may be next degree to an ideot, yet still an old miser will think him a proper husband for his only daughter. Let a woman be but rich, she may be ugly, she may be diseased, she may be justly suspected as to her chastity, yet still an old miser will think her a fit match for his only son; and in both cases the father often takes every method in his power to force a compliance with his desire: nay, we know, that the son or daughter has often no way of avoiding such a detestable match, but by getting him or herself married clandestinely to some other; but this resource will be taken away from every unfortunate child, should this Bill be passed into a law, so that our avaricious rich men will have an indefeasible method of accumulating more wealth into their families; and ambition, the next governing passion of all rich misers, will appropriate every rich heiress in the kingdom to the eldest son of some of our nobility, which in a few years must greatly increase the property and influence of the other House of Parliament, to the manifest danger of our present happy constitution.

In short, Sir, I think there can be nothing more evident than that this Bill must

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tend towards introducing an aristocratical form of government amongst us; therefore I must be of opinion, that our giving our consent to its being passed into a law, would be a sort of treachery towards our constituents, as it is a step towards reducing them to the same abject slavish condition, which the people of Venice were reduced to by their great council in the beginning of the 14th century. But this of its being dangerous to our constitution is not the only bad consequence to be apprehended from passing this Bill; for it will really prove a sort of prohibition of marriage with respect to all our poorer sort of people, because it will render the solemnization of that ceremony so tedious and troublesome, or so expensive, that many of them will either chuse to live single, or agree to live together without any marriage at all. We know how averse our people generally are to a proclamation of banns, even in the present method, when in any of our holyday weeks the whole may be performed, and the loving couple made happy by marriage in three or four days; how much more averse, then, will they be to this way of marrying, when they must give a week's notice before the banns can be first proclaimed, and after that must wait above three weeks before the proclamation of banns can be finished, and the marriage ceremony performed according to the rules prescribed by this Bill? We may therefore with great reason presume, that very few even of the most vulgar sort of our people will submit to be married by way of proclamation of banns; and what with stamp duties and fees, we have made licences so expensive, that very few of them can bear the expence, and if they could, there are but few of them that know how to come at a licence.

What, then, will be the consequence, Sir, of passing this Bill? In my opinion, the certain consequence will be that of rendering common whoring as frequent among the lower sort of people, as it is now among those of the better sort; and multitudes of wenches in all parts of the country, when they find they cannot get husbands according to law, will set up the trade; so that the Bill ought really to be called a Bill for the increase of fornication in this kingdom. How this will suit with the religion or morals of our people I shall leave to the consideration of our clergy, but I am sure it will not suit with the happiness of society, which must always depend upon increasing the breed of the industrious and labouring sort of people amongst us; and therefore, instead of making a law for preventing this increase by throwing obstacles in the way of marriage, we should consider what is the cause that makes clandestine marriages so frequent amongst us, and endeavour to remove that cause by some new regulation. I shall not pretend to offer any scheme for this purpose, but I must say, that I can see no necessity for a proclamation of banns: I can see no reason why the parish should be told so often, and in such a solemn and public manner, that there is a marriage intended between John the plowman and Mary the dairy-maid; and it is plain, that neither the clergy nor the promoters of this Bill think a proclamation of banns absolutely necessary, because they admit of a marriage licence without it. I am therefore apt to suspect, that this proclamation of banns was introduced, and is now to be enforced by law, in order to render licences necessary; and the only use of a licence I take to be that of putting money into the pockets of our clergymen or some of their officers: whereas, if the parson of every parish had a power to marry people at his church without either licence or proclamation of banns, I believe, we should never have any such marriage shop set up as that at Keith's chapel, or any of those now kept within the rules of the Fleet or King's Bench prisons; and if there were no such public marriage shops kept, a young gentleman or lady would find it very difficult to get married to any low or infamous person, because a settled clergyman would have some regard to his character; and as such clergymen are not below the law, they might be prevented by law from marrying any but such as they knew, or such as were recommended to them by some person of character whom they did know, who should always be present at the ceremony, and a signing witness to the register and certificate of marriage.

I shall not say, Sir, that this would prevent a young gentleman or lady being ever married without the consent of their parents or guardians; nor do I think that such marriages ought to be absolutely prohibited, because it would be giving a greater power to parents, and especially guardians, than they ought to have, and which, from experience we may presume, would often be made a very tyrannical use of. But it would, I am persuaded, prevent infamous or scandalous marriages,

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because there would then be no shop for the solemnization of such a marriage, as their only support now arises from the multitude of vulgar marriages solemnized at such shops, because they cannot be so conveniently, or at so cheap a rate, solemnized any where else. Whereas, if a marriage could be solemnized as conveniently, and for as little expence, at the parish church, and by a regular clergyman, even the most vulgar would chuse to be married there: and I should readily agree to any law you please for enforcing the keeping of a regular register at every church or chapel where marriages could be solemnized, and for the more easily convicting, and more severely punishing such as should be guilty of bigamy; but I cannot agree to what will be in some measure a prohibition of marriage amongst the poor, for the sake of preventing what we call clandestine marriages amongst the rich; for marriage may be compared to the importation of some of the conveniences of life; if you lay heavy taxes upon such importation, you of course introduce smuggling, and if by severe laws you prevent smuggling, you force the poor to make the best shift they can without the use of such conveniences; so by taxing and throwing obstacles in the way of marriage, you of course introduce clandestine marriages, and if you prevent these by severer laws, you will force the poor to make the best shift they can without marrying. This, I am convinced, will be the effect of the Bill, and as this is neither consistent with the religion or morals of the people, nor with the interest or happiness of society, I must be against passing it into a law.

Mr. *John Bond:*

Sir; I have not very long had the honour of a seat in this assembly, but I believe the oldest member amongst us never was present at such an extraordinary debate as what we are now upon. The real question before us *is*, whether we shall leave our young gentlemen of fortune, whilst under age, a prey to bawds and prostitutes, and our young ladies of fortune, whilst under age, a prey to sharpers and fortune-hunters, or whether we shall pass a Bill which alone can effectually put an end to this evil, by which so many of our best families have suffered, and more may suffer, and a Bill which cannot possibly be attended with any inconvenience or danger to the society? To hear such a question seriously opposed and gravely debated, must certainly appear very strange to every one who is not well acquainted with our constitution; and if there were any foreigners now in our gallery, (I hope there are not) they would certainly suppose, that many of us were sharpers or fortune-hunters, and many others of us in combination with bawds and prostitutes.

To confirm what I say, Sir, I shall consider this Bill, first as to the evil which it is designed to put an end to, and next as to the inconveniences and dangers which, it is said, may be apprehended from it. By our law, as it stands at present, a boy of 14 years of age may be seduced to marry a kitchen wench, or a common prostitute, and let his quality and fortune be never so considerable, he can never by any means avoid such a rash, inconsiderate, and infamous marriage: nay, even our king's eldest son, the heir apparent to the crown, may at this age be seduced to marry a creature without possibility of avoiding such a marriage by any law now in being. Then with regard to the female sex, a girl just turned of 12 years of age, may be seduced to marry the lowest, the most infamous wretch I can name, and let her quality or fortune be ever so great, this marriage can never be avoided, nor can you inflict any higher punishment upon the man who marries such a girl, than an imprisonment for five years; neither can you, I think, deprive either her or her husband of the possession of her fortune, if her parents were both dead at the time of such marriage; and though it be high treason to violate the king's eldest daughter, yet it is neither treason nor felony to marry her, even though she be then presumptive heir to the crown, nor could you by any law now subsisting disannul such a marriage, if she was above twelve years old when the marriage was contracted, so that the son, perhaps, of a footman who had seduced her at that age to marry him, might come to have a legal right to the crown of these realms, and a right which you could not make void by any law now in being; I say, Sir, by any law now in being, because in such extraordinary cases, I do not know what the parliament might be induced to do by a law *ex post facto*; but as all such laws are of the most dangerous consequence, surely the 'wisdom of the nation,' as our parliaments are called, should have foresight to prevent its being ever under a necessity to make any such.

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Sir, I shall readily grant, that if our clergymen were all men of easy circumstances and unexceptionable characters, there would be no great danger of any such infamous marriages as I have mentioned being ever contracted, because no such clergyman will ever solemnize the religious ceremony of marriage between any two persons without knowing something of their characters, and would absolutely refuse to do so, if the marriage appeared to him to be rash, scandalous, or infamous, with respect to either of the parties. But I am sorry to say, Sir, that many of our clergy are not in easy circumstances, and some are very far from being of unexceptionable characters; for we all know that some of them have set up shops, as the hon. gentleman very properly called them, where any two persons whatsoever may be clandestinely married, without any enquiry into their characters, or even notwithstanding its being known, that the marriage will be of the most infamous sort, with respect to one of the contracting parties. This we all know, Sir, and I believe every one of us may recollect more than one instance, where a young gentleman or a young lady has been betrayed, and deceitfully drawn into such a marriage, to the great grief of their parents, and the utter ruin of themselves. And as the evil is so glaring, and the misfortunes arising from it so notoriously frequent, will any gentleman say, that a remedy should not be attempted, or that any other adequate remedy can be contrived, but that of declaring the marriage void, if not celebrated according to such rules as are or shall be prescribed by law?

That the parliament has a power to do so: that there is nothing inconsistent with justice or with religion in our doing so, no one, I believe, Sir, will doubt, who considers that this Bill has already passed the House of Lords, where the learned bishops have voices, and where the learned judges always attend and are ready to inform their lordships upon every point relating to law or right; and that our doing so can be no way inconsistent with the good of society, we may learn from the practice of our neighbours the Dutch.' In Holland, Sir, a regular proclamation of banns, much the same with what we have here, is so necessary, that a marriage without it is absolutely void, without any decree or sentence of any court for declaring it so; and this proclamation of banns must be made not only in the place where the parties then reside, but also in the place of their former residence, if they have resided but a short time in the place where they then are; and even after proclamation of banns, they must be married in the church or chapel of the religion to which they belong; neither of which can be dispensed with but by the supreme court of Holland with respect to the nobility, or by the supreme magistrate of their city with respect to the other inhabitants; so that in Holland no licence can be granted, either as to the proclamation of banns, or as to not being married at church, by any ecclesiastical person or court whatsoever; and no such licence or dispensation ought to be granted but upon good cause shewn to the court or magistrate, why one or both of these should be dispensed with.

Then, Sir, with regard to the consent of parents or guardians, the law of Holland is, that a son under 25, or a daughter under 20 years of age, must have the consent of the father, if alive, of the mother, if he be dead, or of the next relations, if both be dead; and such a power have the parents over their children under this age, that even after the banns have been regularly proclaimed, they may interpose and forbid the marriage, without being obliged to shew any cause for so doing, unless the proper magistrate should suspect their having a very selfish unjust cause; and if notwithstanding their forbidding the marriage the same should be solemnized, it is by their law what they call *ipso jure* void, that is to say, without the sentence of any court for declaring it void. Indeed, if the parents be both dead, the guardian or relations refusing their consent, or forbidding the marriage, are obliged to assign their reasons before the proper magistrate, who may approve or disapprove of them as he sees cause; and if without his authority the marriage should be solemnized, the marriage, it is true, is not void, but the party thus marrying a person under age, can reap no benefit by the marriage from the estate of the person so married. Nay, such is the duty of children to their parents, according to the opinion of the Dutch, that even after they are above the ages I have mentioned, they are obliged to give express notice to their parents of their intended marriage, who have 14 days after such notice, to appear before the proper magistrate and give their reasons for forbidding the marriage, and if those rea-

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sons should be approved of, and the marriage nevertheless solemnized, it would be *ipso jure* void.

I have been the more full in my account of the laws of Holland with regard to marriage, because I hope it will from thence appear, that every objection against the Bill now under our consideration is frivolous and entirely groundless; and I must farther observe, Sir, that these laws are in force with regard to every subject of Holland even though the marriage should be solemnized in a place not under the dominion of the states, and according to the rules prescribed by the laws of that place. I know that as every one of the seven provinces is a sort of sovereignty within itself, the laws of the other provinces are in some few respects different from those of the province of Holland, but in general they are pretty much the same; and these laws with respect to all the provinces have subsisted for several centuries, without adding to the power of the nobility of that country, or being any hindrance to the marriage of the poor, or any bar to the propagation of industrious and laborious people in that country, which, I believe, is the most populous spot of ground of any upon this globe, not even excepting China, though we admit all we have heard of that country to be literally true.

With respect to this Bill being a step towards introducing an aristocracy amongst us, by securing all the rich heiresses of the kingdom to the eldest sons of our nobility, I am surprized, Sir, at the suggestion; for admitting that rich fathers, or guardians of rich heiresses would always chuse to have their daughters or wards married to peers or the eldest sons of peers, and would take measures to compel the young ladies under their care to agree to such matches, though contrary to their inclinations, which, experience must convince us, is not to be admitted, yet from the laws of this country we must know, that no father can absolutely compel his daughter, much less can a guardian compel his ward, to marry any one he pleases, and if the young lady will but stay till she is 21, she may as freely marry the man she likes after this Bill is passed into a law, as she can do at this present time, because neither the father nor the guardian can then forbid the banns, or prevent her having a licence, unless there be something very infamous in the match she proposes for herself; and even in that case it could be done only by making interest with the proper persons not to grant a licence or to proclaim the banns; for this Bill gives no legal power to the father, or to any relation, of a gentleman or lady of full age, to prevent the granting a licence, or the proclamation of banns; and if the proper officer should refuse to grant a licence, or the proper clergyman should refuse to proclaim the banns, without a just cause, I believe, he would be liable to an action upon which very heavy damages might be recovered against him.

But now, Sir, supposing that by this Bill being passed, all the rich heiresses in the kingdom could be effectually secured for the eldest sons of our peers, I believe the property of our nobility in general will in every age be as much diminished by the extinction of some, and the extravagance of others, as it can be increased by the marriage of heiresses or the creation of new peers. This has always been my way of thinking, and I am sorry to say that the conduct of the present generation furnishes me with reasons for being confirmed in this way of thinking, rather than with any reason for altering it; from whence I am of opinion, that we have more reason to apprehend danger to our constitution from an increase of the number of peers, than from an increase of their property, for nothing can be of more dangerous consequence to our constitution, than a great number of peers who cannot support their dignity, without a pension from, or some employment under the crown; which may very probably happen, if the number of peers should be very much increased, as no estate can by our law be unalienably annexed to the title, and as the family estate is often separated from the title, when the latter happens to devolve upon a collateral branch; therefore, if it were in our power, I think we should contribute towards a poor lord's being always sure of matching himself with some rich heiress, and thereby restoring the lustre and the independency of his family.

Then, Sir, as to the marriage of our poor, there is nothing in this Bill that can prevent any thing of that kind which ought to be encouraged, or even suffered; for as to all those rash and inconsiderate marriages which are entered into between two poor creatures, sometimes before they have got clothes to their backs, and often before they have saved any thing for furnishing a lodging or cottage for themselves, or have got into any way of pro-

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viding for themselves, much less for their children, I think they ought all, if it were possible, to be prevented; therefore, to lay the poor under a necessity of thinking beforehand of what they are about, is in my opinion, a wise and necessary regulation, and can prevent no marriage which ought to be permitted; and as to such of the poor, who have thought beforehand, and in consequence thereof have saved a little money, and got into some way of living, if they are in a very great hurry to be married, or not willing to have the parish made acquainted with their intended marriage, 30 or 40 shillings is not such a large sum as to prevent their getting themselves married; and this is the highest expence that a marriage by licence will cost them any where in this kingdom, for in most places it will not cost near so much, nor can any of them be at a loss where to apply for a licence, because the parson or curate of their parish can always inform them.

But besides the reason of the thing, Sir, the example of Holland, where the marriage is absolutely void if entered into without proclamation of banns or a licence, must convince us, that such a regulation in this kingdom can no way prevent or lessen the number of marriages amongst our poor; and from the same example we must be convinced, that it can no way impede the propagation of the industrious and laborious part of our people; for there is no country in the world where this sort of people is more numerous, more frugal, or more diligent than they are in Holland, which I am apt to think is chiefly owing to their preventing those rash and inconsiderate marriages so frequent in this country; for if an enquiry were to be strictly made, I believe it would appear, that our Fleet and May-fair marriages have very much increased the propagation of beggars, rogues, and the most abandoned sort of prostitutes, amongst us, and but very little that of laborious and industrious poor, as most of this sort here in London are such as were born and brought up in the country, where they have very few clandestine marriages, and where their marriages do not proceed from a drunken frolic, or some sudden whim, as most of our clandestine marriages here in London do, and as they are suddenly joined they are very often as suddenly parted, and each of them perhaps in a few days coupled with a fresh spouse; therefore I do not at all wonder at its appearing, that vast multitudes have been married in a year at such a place as May-fair. But this is such an abuse of the religious ceremony of marriage, that no man who thinks there is any thing sacred in that ceremony, can in my opinion be against passing this Bill into a law, as it is the only effectual method for putting an end to this abuse, and for shutting up those infamous marriage shops, which have so long been a scandal to this country and a public nuisance in the eye of every sober Christian.

I have said, Sir, the only effectual method; for what the hon. gentleman who spoke last was pleased to propose, is rather a scheme for rendering all marriages clandestine, than for preventing any such for the future; because an abandoned fellow might then marry twenty different women in twenty different parishes, and might in every parish get an alehouse-keeper, or some tradesman, to vouch for him to the incumbent, who could not take upon him to object to the character of one of his parishioners against whom he had no legal objection; and if the fellow should afterwards be discovered to be a rogue, the person who recommended him might bring himself off by saying, that he had known him for so long, and had never heard of his having been married to any other woman. And if a young lady of fortune should be seduced by a sharper or footman to elope from her parents or guardians, in order to go and marry him, can we think that he could not find, in some distant parish, a house-keeper of unexceptionable character to recommend him and the lady to the curate of the parish? This scheme, I shall grant, would be effectual enough for shutting up the infamous marriage shops we have now amongst us, because it would make every church and chapel in England a shop for clandestine marriages, and some of them, I fear, would become very near as infamous as those we have now in May-fair or the Fleet.

Thus, Sir, it is evident, that nothing but that of rendering every marriage void which is not publicly solemnized according to the rules prescribed by law, can prevent the evils now so justly complained of, and by which so many of our best families have suffered; and as there are no rules prescribed by this Bill, but such as are absolutely necessary for preventing impositions, and such as I have shewn, both from reason and the example of Holland, to be productive of no dangerous

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consequences, I shall be for its being passed into a law.

Mr. *Charles Townshend:*

Sir; as I have before given my opinion fully upon the Bill now under consideration, I should not think it necessary to say any thing more upon the subject, but as so many alterations have been made that it can hardly be called the same Bill, and as it may be imagined, that by these alterations I have been induced to consider it as a Bill that may now be passed into a law, I think it incumbent upon me to endeavour to shew, why it is in its present dress as unfit to be received by us, as it was in the dress which it first appeared in; and indeed, were I of opinion, that the alterations had made it a Bill fit to be passed into a law, yet nevertheless, I should be against the present question, because when the committee upon a Bill, especially a Bill from the other House, make such alterations as render it in a great measure a new Bill, I think the Bill ought upon the report to be withdrawn, and a new Bill brought in with those alterations in the body of it: for otherwise you depart from those forms which time and experience have shewn to be necessary for preventing surprise.

Sir, the objections against the Bill, even as it now stands, are so many, and of such different kinds, that it is hardly possible to reduce one's thoughts into any method: however, I shall endeavour to do so as much as I can, and for this purpose shall consider the foundation, the design, and the consequences of the Bill as it now appears before us. The foundation is upon three grievances, which are now said to be severely felt, that is to say, the unhappy marriages clandestinely made, which bring shame and vexation upon private families, and want and misery upon the individuals that contract them; the difficulties that are often found to prove the marriage, or the legitimacy or illegitimacy of children; and the frequency of polygamy, or bigamy, call it which you will; for our lawyers, I think, call it sometimes by one, and sometimes by the other name. Now, Sir, as to the foundation of this Bill, I shall make this general remark, that all dangerous or oppressive laws have been first introduced under the pretence of removing some felt grievance; for people are but too apt to run into a greater danger or inconvenience in order to prevent or get rid of a less, because dangers or inconveniences at a distance, like distant objects, always appear less than they really are, and but few men have patience or judgment enough to discover the fallacy of their appearance. As to the crime of polygamy, and the difficulty of proof with regard to marriage or the legitimacy or illegitimacy of children, both these grievances might be easily removed by a short Bill for appointing a proper register of marriages, and for establishing it as a rule by statute, that the legitimacy of children should never be questioned, after the death of their parents who lived together as husband and wife, and were generally reputed to be so in the parish or place where they resided: for what makes the crime of polygamy now so frequent, is the great chance the criminal has of escaping punishment, because of the difficulty of conviction: as the law now stands it is hardly possible to convict a man of polygamy, unless both his wives concur in the prosecution; and if one of them was married in the Fleet, or any such sort of place, it is often not possible, even with her concurrence, to prove her marriage to the satisfaction of a jury; and even when proved, the punishment is so light to a man who has no estate, goods or chattels that can be laid hold of, that it is no terror to such men, and such those are generally who are guilty of this crime: whereas, if a proper register of all marriages were appointed, and the benefit of clergy taken away from the guilty, every woman would insist upon having her marriage registered in the proper register, and it would be so easy to convict the offender, that no one, I believe, would venture to be guilty of the crime.

Then, Sir, with regard to marriage, or the legitimacy or illegitimacy of children, we all know, that such disputes seldom happen until after the death of the father, and they are then occasioned either by a woman laying claim to be the widow of the deceased, though in his lifetime he never owned her as his wife, or by the heirs or next of kin to the deceased, pretending that though he lived with such a woman as his wife, yet they were never actually married. Does not every one see that there could be no difficulty of proof in either of these cases, if a register of marriages were appointed and duly kept? For in the first case, the woman could not but remember where she was married, and could bring a proof of her marriage from the register of that place: in the second case, it would be the same

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if the mother were still alive; and if the mother were dead, the children would have nothing to do, supposing them ignorant of the place where their parents were married, but to prove, that their father and mother lived together as husband and wife, and were generally reputed to be so in the place where they last resided, which might be easily done by the most creditable persons in the neighbourhood.

I now come, Sir, to the third foundation of this Bill, which is the grievance said to be so severely felt by what we call a clandestine marriage, which is a marriage without licence or proclamation of banns; for as goods entered without a clearance from the proper civil officer, are said to be clandestinely entered, though often landed upon some parts of our coast in a very public manner, so a marriage entered into without a clearance from the proper ecclesiastical officer, is said to be clandestine, though perhaps solemnized in a much more public manner, than many of those that are solemnized by licence. But as the public reaps no greater benefit from those marriages that are solemnized in the most regular manner, than it does from those that are solemnized in the most clandestine manner, therefore clandestine marriages cannot properly in themselves be called a public evil, and as they are of different kinds, they ought to have a different consideration.

I say, Sir, of different kinds; for a clandestine marriage may be equal both as to rank and fortune; or unequal as to rank or fortune, or both; or such a one as is scandalous and infamous upon one side or the other. As to those clandestine marriages that are every way equal, surely they cannot be called a public evil, because they are generally the most happy, and such as parents ought to approve of and would approve of, if not governed by some whim or caprice; and shall we put it out of the power of parents to approve of such a marriage, which will be the effect of the Bill now before us? As to those that are unequal with respect to fortune, they are so far from being a public evil, that they are a public benefit, because they serve to disperse the wealth of the kingdom through the whole body of the people, and to prevent the accumulating and monopolizing it into a few hands; which is an advantage to every society, especially a free and trading society. The same may be said of clandestine marriages that are unequal both as to rank and fortune; for if a lord of a good estate should marry a taylor's or a shoe-maker's daughter of good character, though not worth a groat, or if a lady of quality, entitled to a good estate, should marry such a man's son, who was of a good character, but had no fortune, it would be no disadvantage, but rather a benefit to the public, nor would there be any thing really scandalous or infamous in the marriage; because if such a daughter or son were by the industry of the father, or the gift of any relation, possessed of a plentiful fortune, neither parents nor relations would think the match dishonourable; and surely riches can never make that honourable which would otherwise be infamous, nor can poverty make that infamous, which would otherwise be no way dishonourable. Nay, I will go farther, I will say, that such marriages seldom, if ever, bring shame or misery upon the contracting parties. Indeed, when the gentleman or lady of quality so marrying has no estate but what depends upon the good will of their parents, we know that parents are often by their pride and avarice rendered so cruel, as to leave their child to starve rather than seem to approve of such a marriage; but this does not ensue from the marriage being clandestine, for the same consequence would ensue from a regular marriage by licence; and the same consequence will more probably ensue from a lady of quality eloping with such a man, or a gentleman cohabiting with such a woman, without any marriage at all, or after a marriage which you have declared to be void in law.

The only kind of clandestine marriages, therefore, Sir, that can be said to be a public evil, are those I have called scandalous and infamous; and those alone I think such, that are entered into between a gentleman of character and an abandoned prostitute, or a lady of character and a notorious rogue or common sharper; I mean, Sir, a sharper of low rank; for we may, perhaps, have sharpers amongst us, whose addresses would be approved of even by the parents of most ladies of quality in the kingdom. This kind of clandestine marriages is, I shall grant, a public evil, which ought, if possible, to be prevented by a public law, because it is the public interest that such creatures should meet with no good fortune in this world, as their example might be an encouragement to others to follow the same profligate courses. But how rarely do

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such infamous marriages happen, especially with respect to those that are under age? And as to those of full age, if they cannot marry clandestinely, there is nothing in this Bill that can prevent their contracting such a marriage in a regular manner by licence; for the ecclesiastical officer never does, nor indeed can refuse to grant a licence upon demand, if affidavit be made, that the parties are of full age, and that there is no legal objection to their being married, which the reputation of a man being a rogue, or a woman being a prostitute, is not. I cannot therefore think, that we ought to add to the size of our statute book, already too voluminous, by making a new law for preventing what can but very rarely happen; and much less do I think, that we should for this purpose run the risk of introducing one of the greatest misfortunes that can happen to society; and that this will be the case I shall endeavour to demonstrate, when I come to consider the consequences of the Bill now under our consideration; but in pursuance of the method I have laid down, I must first consider the design of the Bill.

As the foundation of the Bill, Sir, is threefold, so the design must of course be threefold, that is to say, to prevent polygamy: to render the proof of marriage more certain and easy, in order to prevent disputes about the legitimacy or illegitimacy of children; and to prevent clandestine marriages. As to the first, this Bill will be so far from answering the design, that, in my opinion, it will render polygamy much more frequent than it is at present; for it prescribes so many formalities for rendering a marriage good and valid in law, that a cunning fellow will always take care to have some of them omitted, by which means he will prevent its being in the power of the law to convict him, or to subject him to any punishment; and as has been already observed, every rakish young fellow may marry several times before he comes of age, without being in the least danger of punishment, or of being made to suffer either in purse or person; for though a young woman might, perhaps, have an action and recover damages against a man of full age, who, under a promise of marriage, or under pretence of a sham marriage, debauched her, yet if he was under age when he did so, she could recover no damages, for he could certainly plead his non-age to any such action; and even supposing a man to be of full age when he was guilty of such a villainous imposition upon an ignorant love-sick maiden, as there can be no adequate recompence for the loss of a man's honour or a woman's virtue, an action of damages would be but an uncomfortable relief for a woman of any character; nay, if the affair had been kept but tolerably secret, she would rather submit patiently to the indignity, than seek for reparation in such a public and mercenary way. This men will be but too apt to trust to, and therefore, I am persuaded, that a few years hence many a young woman will be debauched under the pretence of a sham-marriage, or a written promise of marriage; for though those of the present generation may remember something of the law, and be a little cautious, yet the young women of the next will be as ignorant and as regardless of it, as they now are of our laws against wearing cambrics.

Thus, Sir, it is evident, I think, that this Bill will rather defeat than answer what I have stated as the first design of it, and which, in my opinion, is the most laudable design, the most desirable end. And as to the proof of marriage, how far the register by this Bill to be established will answer this purpose, I shall not at present pretend to form any certain judgment; but this I am sure of, that so far as relates to this register, the Bill is entirely a new Bill; and I must be of opinion, that such an important regulation, a regulation upon which the legitimacy of all the children of the next generation will depend, ought not to be thus passed *per saltum*, as it will be if the present question be determined in the affirmative. I think, we ought to take a little more time to consider of it: nay, I think, we ought to leave it for one summer at least to be considered of by our constituents; especially as we find, that some of the lawyers amongst us are in a doubt, whether this register, though kept in the most formal and regular manner, will be a full proof of the validity of any marriage therein entered. For my own part, as it is not declared in any part of the Bill, that such register book shall be a proof, or even a presumption of the truth of every entry made therein, I am very much afraid, that our courts below will require some further proof, that all the solemnities required by this Bill were duly observed; and if they do, it will render the proof of marriage more difficult and uncertain than it is by the present practice.

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Even as to the register itself, Sir, I am afraid, that our incumbents will be often under great difficulties about making the entry, when the parties happen to live in parishes remote from each other, which is very often the case in the country: for if they are married by proclamation of banns, how shall the incumbent of the church where they come to be married know, that the banns were regularly proclaimed in the church of the parish where the other party resides, and where he has not, perhaps, any friend or acquaintance? They may bring him a false certificate; and if he upon the faith of it enters the marriage in his register, he may afterwards find himself indicted, and must run the risk of being condemned to be hanged for having made a false entry in his register; for what will not a lover do to obtain a beautiful young lady of a great fortune? What will not a revengeful father do, when he finds, that his daughter was married at a church 100 miles off, and an entry made in the register, as if she had been married by proclamation of banns in his parish church, though none such were ever proclaimed; again, if the marriage is to be by licence, the incumbent may know, that the party who resides in his parish is of age, or that the parents have consented: but how shall he be certainly informed of this, as to the other party, who resides, perhaps, in a very distant parish? In short, Sir, if I were an incumbent of a parish, I would not, after this Bill takes place, perform the ceremony of marriage between any two persons whatever, unless I personally knew, not only both the parties, but the relations of both the parties; and what an inconvenience this may be I leave to gentlemen to consider.

Now, Sir, with regard to the third design of this Bill, I shall grant that, I believe it will be effectual for preventing any future marriage without a proclamation of banns or a licence; but if a proper register of marriages were established, I can see no necessity either for a licence, or a proclamation of banns; and as it now seems to be the unanimous opinion of this House, that such a register ought to be appointed, there is not so much as a shadow of reason for carrying this third design into execution, but a great many strong reasons against it. Clandestine marriages, or what I shall now call, marriages without the consent of parents or relations, may affect the pride or the avarice of the rich; but I have shewn that every kind of such marriages, except one, are rather a public benefit than a public evil; therefore in so far, they ought not to be prevented by a public law; and as to the only one that can any way be called a public evil, those of this sort so rarely happen, that they do not deserve to be taken any notice of by the legislature, especially as they generally proceed from some neglect or wrong conduct in the parents, with regard to the care and education of their children. But even supposing that such marriages happened much oftener than they do, is it possible by laws to prevent all the misfortunes that are brought upon individuals by misconduct? Would you prevent such misfortunes by bringing a misfortune upon the society itself? Because some men waste their substance and ruin their families by their extravagance, would you therefore put it out of the power of any man to dispose of his estate? Because some men make very whimsical, and really very unjust wills, would you therefore put it out of the power of any man to dispose of his property by will? And because some people rashly contract infamous marriages; will you therefore put marriage under such regulations as will in a great measure prevent it, amongst the most numerous and most useful part of your people?

This, Sir, leads me to the last head I proposed, which was to consider the consequences of the Bill now under our consideration; and upon this subject I must say, I was surprised to hear the hon. gentleman who spoke last draw any argument in favour of this Bill from the laws of Holland; for the people of this country are so very different from the people in the United Provinces, in their disposition, their temper, and their humour, that a regulation which in Holland has been found to contribute to the public good, may in this country be productive of the most fatal consequences; and besides, the form of government in the two countries, as well as the religion, is so very different, that no regulation in the one can ever be made a precedent for the other. In Holland not only every province but every town is a sort of sovereignty within itself; and their religion, especially with regard to marriage, is much the same as it was in this country in the days of Oliver Cromwell, when neither the marriage contract, nor the ceremony was supposed to have any sanctity or religion in its nature; which is a doctrine that, I hope, will never

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be propagated among the vulgar, especially the women of this country; for the vows of wedlock, like the vows of virginity, I am afraid, are too often broke, though in churches made. The Dutch, Sir, are naturally a cool, patient people, and not given to sudden changes, either in their tempers or passions; therefore the rendering a proclamation of banns necessary may do very well in that country; but in this, where the people are naturally sanguine, impatient, and as apt to change as the air they breathe, I am convinced, that such a regulation would be the cause of numberless mischiefs; yet even the Dutch have never ventured to go so far in this respect, as is proposed by this Bill; for the banns may there be proclaimed on a holiday, as well as a Sunday; and consequently the proclamation may be finished, and the parties married in a week or ten days time.

Then, Sir, with regard to licences, whatever may be the strictness of law in Holland, I have been informed that the practice is different; for the parties may have a licence, upon the first application, from the magistrates of the town where they reside, or from the court of Holland; and though I have not been certainly informed, yet I have reason to believe, that a licence there does not cost so many pence, as it here costs shillings; therefore the poor may easily, and for a very small expence, be married in Holland without proclamation of banns; whereas, if this Bill passes into a law, the expence of such a marriage will very soon amount to 40*s.* or two guineas: for a licence cannot be now had under four or five and twenty shillings, besides the fees to the parson, &c. and after licences are made so necessary, the fees of both will certainly be increased.

But what makes the most material difference, Sir, between the laws of Holland, (for upon this occasion I have enquired a little into them) and what is proposed by this Bill, is in what relates to promises of marriage, and the marriage of persons under age. In Holland, a promise of marriage is so sacred, that the parties must perform, if they were of age when the promise was made, and the same can be proved by the oath of the party, by writing, or by a sufficient number of witnesses; otherwise the judge will imprison the party refusing, or determine that the parties shall in every respect be deemed as if they were married; for they think that the breach of such a promise is inestimable, and cannot be compensated by any sum of money, unless the plaintiff agrees to accept of it. For this reason espousals, or a mutual engagement to marry, are very frequent in Holland, and often entered into before the magistrates in the town-house, after which it is very common for the parties to cohabit together as if they were married: nay, if a gentleman gives a lady what they call a trow-brief, that is a promise in writing to marry her, she makes no scruple to admit him to her bed; which is a very convenient custom for the ladies; because if after that, she does not like him for a husband, she throws her trow-brief into the fire, and is under no obligation to marry him.

Thus, Sir, we see how favourable the laws of Holland are for the fair sex; but with regard to them this Bill will be a most cruel law. It is impossible to prevent an innocent credulous young creature from trusting to the solemn promises of the man she loves, and every man may find twenty reasons for convincing a young woman who loves him, of the danger of their marrying at that time. It would therefore be vain to imagine that such promises will not hereafter be made, and still more vain to imagine that they will not be too often trusted to: he must be a man very ignorant of the world who can imagine the former, and I must think him a very unfortunate man who can imagine the latter, because it is plain he never enjoyed the pleasure of having the good graces of any young woman whatsoever. As the law now stands, if a treacherous young fellow should refuse to perform such a promise, the young woman who trusted to it may sue him in the ecclesiastical court, where she may put him to his oath, and if he confesses the promise, or she can otherwise prove it, he must either marry her, or be imprisoned upon the writ *de excommunicato capiendo*. But if this Bill passes into a law, she can have no relief: the statute of frauds and perjuries will be a bar to her action at common law, unless she has been so cautious as to take a promise in writing: even then, if he was under age, his nonage will be a bar to her action; and supposing him of age, she must submit to have a price put upon her honour and virtue by a jury of tradesmen, few of whom are much accustomed to deal in that commodity; for even suppose she had taken a bond, I doubt much if our courts of law would give her any greater share of the

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penalty, than the jury should find by their verdict. From all which I must conclude, that this Bill, if passed into a law, and not soon repealed, will be the cause of numberless villanies among the men, and of the ruin of a multitude of young women.

Now, Sir, with regard to the marriage of persons under age, I shall grant that in Holland, where marriage is considered only as a civil contract, it is void, if contracted against the declared will of the parents; but if they do not declare their dissent, nor any fraud used for preventing their knowledge of it, the marriage is good, if the husband be above 14, and the wife above 12; and even when the parents declare their dissent, the magistrate may interpose, and if they cannot give a sufficient reason for such dissent, the magistrate may authorize the marriage whether they will or no. But by this Bill we are to go a great deal farther; for the express consent of the parents must be had, otherwise the marriage, if by licence, is to be void, and let the father's dissent be never so selfish, capricious, or cruel, no magistrate, no power whatsoever can authorise a marriage either by licence or proclamation of banns. This is really establishing such a tyrannical power in the father, as will, I am persuaded, be the ruin of many children, especially such as may have a father under the government or influence of a cruel stepmother. Then, Sir, with regard to the consent of guardians, in the province of Holland, their consent is so far from being necessary, that marriage even without their consent puts an end to their power; for from that moment the ward is deemed to be of full age, and may act as such; and the reason given for this regulation, which, indeed, is peculiar to the province of Holland, is, because it is for the benefit of commerce. But by this Bill, if the marriage be by licence, the express consent of the guardian, or a decree of the court of Chancery, must be had, let the person under age be never so poor; and if such a person has no guardian appointed by the will of the father, their marriage by licence seems to be absolutely prohibited, without previously incurring the expence of having a guardian appointed by the court of Chancery,

Let us consider, Sir, that the flower of youth, the highest bloom of a woman's beauty, is, from 16 to 21: it is then that a young woman of little or no fortune has the best chance for disposing of herself to advantage in marriage; shall we make it impossible for her to do so, without the consent of an indigent and mercenary father? Shall we render it next to impossible for her to do so, even though she has neither father nor mother alive? For a gentleman marrying a beautiful young girl of little or no fortune, is generally so much laughed at by his companions, that no man would chuse to have it made public before-hand, by a proclamation of banns, or an application to the court of Chancery for appointing her a guardian; and the necessity of his doing so may very probably prevent his making her happy, or induce him to render her miserable by debauching her. Sir, I must look upon this Bill as one of the most cruel enterprizes against the fair sex that ever entered into the heart of man, and if I were concerned in promoting it, I should expect to have my eyes torn out by the young women of the first country town I passed through; for against such an enemy I could not surely hope for the protection of the gentlemen of our army.

But, Sir, of all the consequences that must ensue from the passing of this Bill into a law, that of preventing marriage and promoting fornication among our industrious poor will be the most pernicious. We know how averse our people are to marriage by proclamation of banns, even now when they may be completed in a week or ten days: how much more averse will they be, when they cannot be completed under a month? Those who do not think this too long a time for a loving couple to wait for the completion of their wishes, must either have never felt the passion of love, or must be so old as to have entirely forgotten the passions of their youth, so as to be now callous to all passions but that of avarice, which is too often the domineering passion of old age. What, then, must our poor do? A licence they cannot pay for: Sir, they will certainly begin to cohabit together, as soon as they have given notice to the parson to proclaim the banns; and the man, especially, may be so cloyed with enjoyment before they are finished, as to refuse being married: thus both being initiated in fornication, may probably go on in the same way, and never think of marriage more; for the first barrier of virtue is to all men, and especially to women, the most difficult to surmount.

It is impossible to imagine, Sir, that any set of men would think of subjecting their country to so many inconveniences, for

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the sake of preventing that sort of clandestine marriages which happen so rarely, and which may more effectually be prevented by a due care and a proper education of children. There must be some latent design, and that can only be a design to secure all the heiresses of the kingdom to the eldest sons of noble and rich families, in order thereby to establish that sort of aristocratical government, which, from the Conquest to the reign of Henry 7, was the plague of this country, and so often involved us in bloody civil wars; for I look upon this Bill only as the prelude to another Bill for restoring the old law of intails, as a much stronger argument may be drawn for the latter, from the misfortunes of families by the extravagance of an ancestor, than ever can be drawn for the former, from the misfortunes of families by the clandestine marriage of a son or daughter. Sir, if this Bill could any way contribute to secure all our rich heiresses to the eldest sons of noble reduced families, the argument might have some weight; but as a rich noble lord is as fond of having his eldest son married to a rich heiress as any poor lord can be, and as an avaricious father always will, and the court of Chancery, or a guardian always must prefer the former, the Bill will have a quite contrary effect. The poor nobility will become, as they are in Poland, attendants only upon the rich, and will serve to increase their power to transgress the laws and disturb the peace of their country.

I hope no gentleman will from any thing I have said suppose, that I am for encouraging children to be undutiful to their parents. I think children are in duty bound to consult their parents upon all occasions of importance, especially in that of their marriage, and even to curb their inclinations, if possible, when they find them disagreeable to their parents. But the duty is reciprocal: there is a duty owing by parents to their children, as well as by children to their parents; and an exact and affectionate performance of that duty on the side of the parent is the best way to secure it on the part of the child. If you establish a tyrannical power in the father, as you propose to do by this Bill, you will make many fathers forget that duty they owe to their children, and the consequence will be a neglect of duty on the other side, as soon as it is in their power. Therefore, to the many arguments I have before used, I must add this, that for preserving the duty of children to their parents, I must be against passing this Bill into a law, and consequently must give my negative to the question.

The Earl of *Hillsborough*:

Sir; I am very sensible of the danger I am in, when I rise up to speak after the hon. gentleman who spoke last: his manner of speaking is so engaging, there is such music in his voice, that it pleases the ear, though it does not inform the understanding: at the same time he expresses his sentiments in such beautiful terms, is so ingenious in finding out arguments for supporting his opinion, and states those arguments in so strong a light, that he is always most deservedly heard with attention, and even with a sort of prejudice in favour of every thing he says. But yet I am so fully convinced of his having upon this occasion adopted the wrong side of the question, that, I think I may venture to shew the impropriety of most of his arguments; and indeed, there was not, in my opinion, one argument he made use of against this Bill, but what militates as strongly against every law now subsisting for preventing clandestine marriages; therefore, if I thought there was any weight in those arguments, I should move for leave to bring in a Bill for repealing all the penal laws we have against such marriages, in order to leave every boy of 14, and every girl of 12, at full liberty to run to the next marriage shop, (for I suppose we should soon have one in every street) and be married when, and to whom any sudden start of fancy should direct them.

But, Sir, I have always thought marriage a very serious affair, therefore, I think, it ought to be gone about with discretion, with deliberation, and even with a religious awe and reverence. A mutual love between the two parties contracting marriage, is, I shall grant, a very proper ingredient; but then it ought to be a sedate and fixed love, and not a sudden flash of passion which dazzles the understanding, but is in a moment extinguished: the happiness of a marriage founded upon such love can never be lasting, and accordingly we find from experience that it seldom proves so. Therefore our religion as well as our laws have very wisely provided, that no such marriages shall ever be contracted; and when the mutual love is fixed upon a solid foundation, that is to

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say, upon the beauties of the mind, as well as the charms of the person, a month's preparation can be no ways grievous to either of the parties, but is in a manner necessary for convincing the world, as well as the parties themselves, that their choice of each other is founded upon judgment and discretion. This time for deliberation, is, I think necessary for all ranks of people: as to those of the better sort who can conveniently pay for a licence, it is to be supposed, that they have taken time enough to consider what they are about, before they apply for a licence; but as to the poor servants and labourers amongst us, it is fit they should be obliged to take so much time, because when left entirely to themselves, they are but too apt to run into matrimony, before they have considered how they are to support either themselves or the children they may probably have after marriage; and the opportunity they have of doing so by means of the marriage shops at May-fair and the Fleet, is certainly the cause of our having so many rogues and beggars in and about this great city; for the prosperity and happiness of a country does not depend upon having a great number of children born, but upon having always a great number well brought up, and inured from their infancy to labour and industry.

No public mischief can therefore ensue from any thing to be established by this Bill relating to the proclamation of banns, and I am surprised, Sir, to hear any gentleman, who thinks there is any thing sacred in the marriage ceremony, or that such an opinion ought to be propagated amongst the vulgar: I say, I am surprised to hear such a gentleman argue for the expediency of clandestine marriages, for this is in effect the tendency of all the arguments made use of against this Bill. Does he think that the vulgar can believe, that there is any thing sacred in a ceremony performed in a little room of an alehouse in the Fleet, and by a profligate clergyman whom they see all in rags, swearing like a trooper and higgling about what he is to have for his trouble, and half drunk perhaps at the very time he is performing the ceremony? Surely, no gentleman can think that a practice which brings not only the religious ceremony of marriage, but even our religion itself, into contempt, ought not to be put an end to; and experience may convince us, that there is no way of putting an end to it, but by declaring all such marriages void.

Then, Sir, with regard to the marriage of persons under age, one would really think from gentlemen's way of arguing against this Bill, that we have now no laws against infants being married without the consent of their parents or guardians, and without proclamation of banns; yet we have now subsisting laws both of our church and state against it, and we have had such laws subsisting, ever since we had either law or religion among us. Therefore if it be a hardship that a beautiful young girl of 16 or 17 must either have the consent of an indigent or mercenary father, or be disappointed of a most advantageous marriage, the hardship is not to be introduced by this Bill, because by the laws now in being she must either have the father's consent, or she could not possibly be married in a legal way. And in the same manner it would be easy to shew, that every inconvenience which has been mentioned as the consequence of this Bill, should it be passed into a law, is an inconvenience that is now established, and has for many ages been established, by the laws both of our church and state; so that we have not only the wisdom of our ancestors, but the experience of many ages, to convince us, that these inconveniences must be submitted to, rather than allow such a licentiousness with respect to marriage as has been of late years introduced into this kingdom, and too long suffered, by marrying in a clandestine and unlawful manner. Therefore, all that the hon. gentleman has said upon this subject, can signify nothing against our passing this Bill into a law; for though at first hearing it sounded very prettily, yet upon a close examination it appears to be 'vox 'et præterea nihil.'

Will any gentleman say, Sir, that clandestine marriages, in the manner they are now practised, ought to be suffered? I think I have not heard any gentleman say so in direct terms; and I was glad to hear the hon. gentleman own, that this Bill, if passed into a law, will be effectual for putting a stop to the infamous practice, for so far it must be allowed to be a good Bill. This alone is therefore a great point gained; and as the hon. gentleman was likewise pleased to own, that a register of marriages ought to be appointed, I shall shew, that unless you alter the laws now in being, no such register can be appointed, but what would be attended in some degree with every inconvenience said to be attending this Bill; for unless you

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made all marriages void that were not registered in the proper register, your register would signify nothing. Would you trust a Fleet-parson, or any such parson as the parson of May-fair, with keeping a register? No one can suppose you would. The keeping of a register could be trusted to none but the incumbents of our regular parish churches or chapels, and they to register none but such as were solemnized by themselves at that parish church, or that chapel. But such incumbents neither could nor would solemnize any marriage without a regular licence or proclamation of banns: and if either of the parties were under age, no regular licence could be had without the consent of parents, guardians, or relations, nor could the proclamation of banns proceed, if a parent, or guardian, or the next relation, came and forbad them. Thus gentlemen must see, that no Bill can be contrived for appointing a register of marriages, but what would be in effect the same with the Bill now before us, and would be attended with the same inconveniences, except only as to the time for proclamation of banns; and even in this respect there could be no very great difference, for except at Christmas, Easter, and Whitsuntide, the parties must by the laws now in being wait three weeks, or at least a fortnight before the proclamation of banns can be finished, as the incumbent, unless he personally knows both the parties, must even now have some days to enquire, before he begins publishing the banns, lest he should be imposed on, and drawn in to publish the banns of marriage between two persons who never had any such purpose.

As to the rule, Sir, which the hon. gentleman was pleased to lay down, that no Bill ought to be passed, if it has received any material alteration in the committee, if it were to be established as a rule for our proceedings, I believe very few Bills could be passed in the same session in which they were first brought in, which would render our sessions much longer than they are, and than most gentlemen could bear to attend. Such a rule can never therefore be established, and there is less occasion for it with respect to this Bill, than most others, because it was so often and so well considered in the committee: though the clauses relating to a register be new, yet the regulation itself cannot be said to be new, because when the Bill was first brought to this House, there was in it a clause appointing all proclamations of banns to be registered, and licences, we know, have always been registered in the proper office where they are granted. Besides, we know, that in most parishes a register of marriages solemnized at their parish church has always been kept, though in most places not so regularly, nor so well preserved as they ought to have been, which is the reason of their not being deemed so authentic as not to require some further proof, even of the marriages there entered; but if this Bill passes, those registers must be so regularly kept from henceforth, that I am convinced, every court in England will deem them authentic, and look upon them as a full proof of the marriage there entered, unless a strong proof be brought of the entry being false or forged. This will of course put an end to all disputes about marriage, or the legitimacy or illegitimacy of children; and it will be, I hope, an effectual bar against polygamy; for there are no forms or rules prescribed by this Bill, upon which the validity of the marriage depends, but what the parson who solemnizes the marriage must take care to see observed; therefore it will be in no man's power to neglect any of them, with a view to prevent his being prosecuted and convicted of polygamy; and if the punishment should hereafter appear not to be sufficiently severe, we may easily by a short Bill deprive such criminals of the benefit of clergy.

This Bill therefore, Sir, will answer all the ends that are really proposed by it; for as to that of its being designed to introduce an aristocratical government, the suggestion is so chimerical, that I cannot think any gentleman serious when he talks of it. The riches of the peerage can never enable them to establish such a government. It was not the riches but the military power of our ancient barons that made them so formidable: they had every one a great number of vassals or tenants by military tenure in their respective manors depending upon them: those vassals and all their farmers, as well as the farmers of their lord, were all obliged to provide themselves with arms, to breed themselves up to military discipline, and to follow the lord, whenever he called or in whatever cause he embarked. By this means every great baron was able to bring a considerable army of well armed, well disciplined soldiers into the field; and this it was that made them so formidable to an ambitious, aspiring monarch or favourite: but what use did they make of this military

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power? Never to oppress, but to preserve or restore the liberties of the people; as every gentleman must grant, who has read with attention our history from the Conquest to the reign of Henry 7, therefore we have much more reason to be afraid of our liberties being brought into danger by the poverty, rather than by the riches of the peerage; for should they even get the old law of intails restored, it could not enable them if they would, to oppress the liberties of the people, as the whole military power of the society is now lodged in the crown and the two Houses of Parliament, and there it must remain unless the Commons should consent to the re-establishment of military tenures, which, I am sure, they never will.

For these reasons, Sir, I am fully convinced, that this Bill will answer every good end, that it can answer no bad end, nor introduce any new inconvenience, and that it is the only method by which we can put an end to the present infamous abuse of the sacred ceremony of marriage; therefore I shall most heartily give my suffrage for its being passed into a law.

Mr. *Henry Fox:*

Sir; as I cannot pretend to have any music in my voice, I am afraid the noble lord will receive neither pleasure nor information from what I am to say upon the present subject; for nothing, I think, can be more clearly directed to the understanding than what was said by my hon. friend who spoke before him; but it is a misfortune incident to human nature, that when our understanding is prejudged, we can receive no more information from reason, than we can, when our ears are stopped up, receive pleasure from music. If this were always the case with the majority of this House, I am sure I should never give you any trouble; but as it never is, I hope, the case with any one of us, I may now, perhaps, have the good fortune to meet with better success than either I or my friends have, it seems, hitherto met with. As to one argument, and, I believe, the most prevailing argument, made use of for our going into a committee upon the Bill sent down to us, which was the respect we owe to the other House and to the learned judges who brought it in, I am very sure it can in no shape be pleaded for our passing the Bill before us; for it is quite a new Bill. There is not so much as one clause, hardly indeed a sentence, that stands the same as it was in the Bill sent down to us from the other House; and besides, there have been no less than six or seven new clauses added; but this I need not tell you, Sir, I shall shew it, for it may most properly be said that it appears *primâ facie*. [Here he held up the printed Bill with all the erasures, alterations and additions made to it.]

This argument therefore, Sir, can no longer have any weight; and as to the pretence that we are by this Bill to provide for the protection of innocence, it is directly the contrary: we are laying a trap for the most innocent and the most easily deluded part of mankind: we are going to expose the whole female sex to their most infamous betrayers. I say, most infamous; for of all the deluders and betrayers of woman-kind, those are the worst who debauch them under a promise of marriage. Such promises young innocent girls have too often trusted to: such promises they will too often trust to, make what laws you will against it; and by this Bill you are going to take from them the only remedy they have, the only method in which they can sue for the performance of such a promise. Nay, you are to do more: you are to expose young women to the danger of being deluded and debauched, even by what they may think a true and lawful marriage. Is this providing for the protection of innocence? Is it not inhuman? Is it not cruel? And for what are we to be so inhuman, so cruel? Only that the few rich heiresses we may have from time to time amongst us, may be secured for our quality, and for such of our quality too, as have the least occasion for such mercenary matches; for a rich miser will always be for making his daughter a duchess or a countess, and will as certainly chuse the richest that offers, without consulting in the least her inclination; and from experience we may know, that guardians will very seldom scruple making a sacrifice of their ward for promoting their own interest.

This, Sir, is in itself a bad motive for a new law, were the law to be attended with no fatal consequence; but the misfortune I have mentioned is far from being the only one with which it will be attended. To accumulate the whole wealth of a society into a few families, is inconsistent with the happiness of every society, and to throw it all into the hands of our nobility is inconsistent with our constitution in particular. It is not the increase of their military power that we are at present afraid of: it

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is the increase of their elective power, and the increase of their elective power will be of more danger to our constitution, than ever the military power was, which they in former times separately possessed; for a factious majority of the other House having by means of their elective power, got a majority in this, will soon force the crown to put the whole military power of the kingdom into their hands; whereas in former times they could only get that part of it which they separately possessed, and if the crown preserved or recovered the affections of the people in general, it soon became an overmatch for any faction among the nobility. Therefore both the crown and the commons have now more reason to be afraid of the elective power of the nobility, than they ever before had to be afraid of their military power; and if those of the other House should once get into their hands all the chief commands in our army, it would then be too late for us to think of resuming our ancient independency: if we should but attempt it, they would very probably return us the compliment we once paid to them, of voting this House useless and dangerous, and therefore to be abolished.

Thus, Sir, the Bill now before us, if passed into a law, will be of the most dangerous consequence to the female sex, of the most dangerous consequence to our constitution; and, what is worst of all, it will endanger our very existence: for without a continual supply of industrious and laborious poor no nation can long exist, which supply can be got only by promoting marriage among such people. I shall grant, Sir, that by our present laws relating to marriage, a proclamation of banns, or a licence, is absolutely necessary for rendering the marriage perfectly regular; and if these laws had been strictly carried into execution, we had felt the bad effects of them long before this time. They were invented and established in the times of popery, when every method was taken to increase the revenues and the perquisites of priests; and I suspect that this was the chief motive for continuing them after the Reformation. But even High Church itself never took upon it to declare that to be void, which was in itself valid both by the law of God and the law of nature; for such is every marriage not prohibited by those laws, when perfected by consummation, let it have been contracted in never so clandestine a manner, let the inequality between the contracting parties be never so great, with regard to rank and character in the world. This regard, which even High Church itself has always shewn to the laws of God and nature, together with the difficulties and expence, which the avarice of priests had thrown in the way of what they called a regular marriage, introduced the custom of marrying clandestinely, and this custom has hitherto prevented our feeling the bad effects of our present laws relating to marriage.

But, Sir, if you not only establish but increase those difficulties and this expence: if you render them absolutely necessary, by declaring every marriage void that shall hereafter be contracted or solemnized without them, you will soon come to feel the bad effects of it, as you will thereby put almost an entire stop to marriage among the poorest and most laborious part of our people: I say, Sir, if you not only establish but encrease the difficulties and the expence which our present laws have thrown in the way of marriage; for you are to do both by the Bill now before us. As the law now stands, a laborious couple may agree to be married of the Saturday night, and they may go next morning early to desire the curate to proclaim the banns: they are accordingly proclaimed that day for the first time; they are proclaimed a second time upon an intervening holy-day, which often happens, and a third time the next Sunday: thus they may be married, after a regular proclamation of banns, in nine or ten days; and if it should happen to be at Christmas, Easter, or Whitsuntide, in four days after they have agreed to be married. But if this Bill passes into a law, no couple can ever be married by proclamation of banns in less than a month after they have agreed upon it, in which time it is a great chance but one of them repents, very probably the man, after having prevailed upon the credulous wench to admit him to her bed in view of the future marriage; and as to a licence, it is ridiculous to think that poor people ever can, or ever will put themselves to the expence of it. Then, Sir, as to the register, I am of opinion, that our poor people, most of whom have never been taught to write their names, will be absolutely excluded from marriage either by proclamation or licence; for by this Bill, as it now stands, both the parties, and both the witnesses, must subscribe their names to the register: suppose one of the parties, or one of the witnesses, has

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never learnt to write his name, the minister cannot make an entry in his register, and consequently cannot marry two such persons, according to the directions of this act; and suppose the rector, vicar or curate, attending the cure, should be absent or ill at the time, I do not see how any clergyman serving for him, can marry any two persons at that church or chapel in the terms of this act; so that during the illness or absence of the rector, vicar, or curate, should it be for half a year together, all marriages at that church or chapel must be suspended, and if both parties should live in that parish, they could be married no where else.

Thus, Sir, we see what new difficulties we are to throw by this Bill in the way of marriage, especially amongst the poor; and as to the expence, they must be very little acquainted with the nature of offices, who do not know, that the more necessary you make it to apply to any office, civil or ecclesiastical, the more you will increase the insolence and the expence of that office. And all these inconveniences, all these dangers, we are to expose ourselves to, lest the daughter of a noble or rich family should marry a footman or sharper, or the son a chamber-maid or common strumpet. As to the daughter, Sir, if she marries such a one, I will venture to say, it always proceeds from some fault in her education, or from such a bad natural disposition as very little deserves the concern even of her parents, and much less that of the legislature. In former times, when daughters were bred up in such a recluse way as never to converse freely with any but the servants of the family, such misfortunes might often happen; but since the modern method of education has been introduced: since young ladies have been introduced into the fashionable world, almost as soon as they have dropt their hanging-sleeves, such misfortunes very rarely happen, and I may be bold to answer for it, that they never or but very seldom will happen. Then as to our young masters, I am surprised to find any one in a panic about their marrying common strumpets before they come of age. Men come to years of discretion, men of all ages above that of infancy, do take such creatures into keeping, and afterwards very often marry them; but if a young gentleman under age ever marries a young girl of inferior rank, it is generally because he finds he cannot make her a harlot. Therefore, Sir, as such misfortunes happen so very rarely, I cannot suppose that any man would have been at the pains to think of a public law for preventing them; and for this reason I must suspect, that the introduction of the Bill now before us proceeded from motives which neither have been nor will be avowed.

But, Sir, let the motives be what they will, the scope of the Bill is to do what we neither ought, nor can do. We may deny the assistance of the law for enforcing a divine or a moral obligation: even this would be going a great length: but we cannot render it void, nor ought we to declare it to be so. If we do, we are partners in, we are in some measure the authors of, the transgression. The statute of frauds, and perjuries declared, that no action should be brought upon any marriage agreement, unless it was in writing; but they did not declare it void: the reverend bench in those days would have started at the very thought of such a daring proposition: nay, the legislature did not then so much as declare, that no suit should be had in any spiritual court for compelling a celebration of marriage *in facie ecclesiæ*, for any contract of matrimony not reduced into writing. So cautious was the legislature at that time of annulling an obligation, which is binding both by the divine and the moral law. "Whom God has put together, let no man put asunder," was then thought to be a precept which was not to be broke through, or encroached on by any human legislature whatever; for it is a mistake to say, that our law did ever before this time annul or dissolve a marriage, which was not by the divine law declared to be void or dissolved. The proceedings in our spiritual courts, or even in parliament, is not, properly speaking, to annul or to dissolve the marriage, but to ascertain and establish the truth of the facts upon which the nullity or the dissolution is founded by the laws of God. If we had deprived a clandestine marriage of all assistance from the law for either party's recovering any of their matrimonial rights, it would not, perhaps, have been going beyond the bounds of our power; but if the marriage be a good and a valid marriage both by the divine and the moral law, I really do not think it is in our power to declare it void, because some of those ceremonies were not observed which we had thought fit to prescribe; and our attempting to do so will be attended with this bad consequence, that the parties may think themselves no way bound either by

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the divine or the moral law. Suppose, that after our passing this Bill into a law, a young gentleman should marry a young lady of equal rank, but no fortune, in some sort of clandestine manner, but in such a manner as every divine in England would deem to be a good marriage: suppose that he, depending upon the nullity of his marriage by virtue of this law, should desert her and marry another: and suppose that she should in two or three years die for mere want. I will aver, Sir, that, during her life, his living with the other would be a continual course of adultery, and by her dying in such a manner, he would be guilty of a most cruel murder. Could any man who had been concerned in promoting this Bill lay his hand upon his heart and say, I was in no shape the author of these atrocious crimes? I am sure, I could not; and therefore, if any such thing should happen whilst I live, it would be an infinite satisfaction to me to reflect, that I had opposed the passing this Bill to the utmost of my power.

I hope gentlemen will consider this a little, for if they do, I cannot think, Sir, they will be for making so free with the laws of God and nature as at present they seem inclined to do. I hope that, instead of increasing the difficulty and the expence, they will think of some method for rendering marriage less difficult and expensive to the poor than it is at present; and by laying a severe penalty upon every one concerned in promoting or solemnizing an infamous clandestine marriage, you may in a great measure prevent any such for the future. The establishing of proper registers for marriage would, in my opinion, be more effectual for preventing polygamy, and for putting an end to all disputes about the legitimacy of children, than either a licence or a proclamation of banns; but for this purpose, there would be no necessity for your doing what, I think, you cannot do, that is, declaring all marriages void that are not registered. A register duly kept would be an easy proof of every marriage there entered; and if those who had not taken care to have their marriage registered, should fail of proof when they had occasion for it, it would be entirely their own fault. The certainty of proof in one case, and the uncertainty of it in the other, would lead most people to be married in a regular manner, especially if you made it very near as easy and as little expensive to be married in a regular as in an irregular manner. And as to that sort of irregular or clandestine marriages, from whence any sort of infamy may ensue to either of the contracting parties, I wish with all my heart, Sir, they could be entirely prevented; but as to every other sort, I do not think the public much concerned about preventing them: nay, I very much question if it be the public interest to prevent them altogether: but I am very sure, we ought not to think of preventing clandestine marriages even of the most infamous sort, by exposing the public to so many inconveniences and dangers, as I have shewn it will be exposed to by the Bill now for the last time under our consideration: and therefore I shall most heartily give my negative to its being passed into a law.

Mr. Solicitor General *Murray:*

Sir; in some part I agree with the hon. gentleman who spoke last, but I agree with him upon a very different principle. I agree with him, that the respect we owe to the other House cannot be pleaded in favour of the question now under our consideration; but in this I agree, not because the Bill now before us is quite a new Bill, but because the respect due to the other House, though it may be a good argument for our going into a committee upon any Bill sent down to us from thence, can never be an argument of any weight for our passing it into a law. The Bill now before us is essentially the very same with that which was sent down to us from the other House. All the clauses that were then in the Bill still remain in it, with some very immaterial alterations; for, I hope, no gentleman will say, that it is very material whether the act shall take its commencement from the 1st day of January, or the 25th of March, next ensuing; or that it is of any great importance whether prosecutions shall be commenced within one year, or within three years, after an irregular solemnization of matrimony; and as to the other alterations or additions that have been made to the respective clauses, they were thought necessary even by those who seemed to be against the Bill, in order to prevent doubts or questions that might arise upon the words as they at first stood in the Bill. Then, as to the clauses that have been added, most of them relate to the establishing of a register for marriages, which is a regulation that every gentleman now seems to approve of, and was approved of by a great majority, in a Bill which this very

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session passed through this House: but as that Bill is not like to receive the approbation of the other House, therefore the design was again taken up, and proper clauses for the purpose inserted by the committee upon this. As to the other clauses that have been added, one, I think, is to prevent a minister's being liable to ecclesiastical censures for solemnizing marriage after banns published, between persons under age, without consent of parents or guardians, if he has no notice of their dissent: a second is for determining what places shall be deemed extra-parochial, for the purposes of this act: a third, for obliging the person who is to grant licences to take an oath for the faithful execution of his office: and a fourth, to prevent its being necessary for the parties to give proof of their actual dwelling in the respective parishes wherein the banns were published.

Can it be said, Sir, that all or any of these clauses render the Bill a new Bill; or that any of these clauses, or the clauses for establishing a register of marriages, are improper for being inserted in a Bill to prevent clandestine marriages? Therefore no argument can be drawn from any of the alterations or additions made to the Bill, against agreeing to the present question; but on the contrary, they shew, that the Bill has been fully considered; consequently, I do not think that any gentleman can be for putting off the passing of this Bill to another session, but such as are against our passing any Bill that will be effectual for preventing that burlesque upon the marriage ceremony, which is now so frequently repeated at the pretended chapel in May-fair, or the more scandalous pretended chapels within the rules of the Fleet prison. That some young gentlemen should be against putting an effectual bar to all clandestine marriages, I do not much wonder; but I cannot suppose that any gentleman who has ever known what it is to be a father, will be against it. Every man who has the least degree of paternal affection, must ardently desire to see his children happily and honourably married, therefore it must be an unspeakable grief to a parent to hear of his son being married to a common strumpet, or his daughter to a common sharper, perhaps to a fellow who at that very time is liable to be indicted and hanged for robbing upon the highway; and that such misfortunes may hereafter happen, let parents take what care they will, we cannot but be convinced, from what has often happened within our own memory. Shall we, Sir, be deterred by imaginary fears and conceited dangers from providing against such a real, such a known misfortune? For that all the inconveniences and dangers that have been suggested as the consequences of this Bill are chimerical, may, I think, be very easily made appear.

As to the danger, Sir, which the female sex may be exposed to, it is very evident that they are now in greater danger than they can be after this Bill is passed into a law; for whilst the law is vague and uncertain, weak people may surely be more easily deceived, than when it is plain and determined. As the law stands at present, a young woman may trust to a promise of marriage, because she may have some hopes of being able to compel the man to fulfil his promise, though such hopes generally prove abortive; but when it is declared by a positive law, that no such promise shall be binding, no young woman will trust to it; for whatever opinion some gentlemen may have of the knowledge of young women, they generally take care to be pretty well informed about every thing relating to marriage.

Thus, Sir, if we can be under any apprehension of danger to the female sex, who, I shall most readily admit, deserve our utmost care, it is on the side of rejecting this Bill, and not on that of passing it into a law. And as to the dangers that are to be apprehended from accumulating the wealth of the kingdom into a few hands, or into the hands of our nobility, we can never in any period of time have such a number of rich heiresses in the kingdom, as to furnish the least foundation for an apprehension of this kind, no not even if it were certain that all of them would be married to the eldest sons of our richest noble families, which is so far from being certain, that, I think, the certainty is on the other side, as neither the father nor guardian can force a young lady to marry whom they please, and after she comes of age, she may marry whom she pleases, as freely after as before this Bill is passed into a law. There is therefore not the least foundation for this apprehension, and as little is there for that of the Bill preventing marriage among the poor; because we find no such effect from proclamation of banns in the country, where the poor must now marry in that way. It may, indeed, prevent some of the sudden rash marriages which might otherwise be

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made clandestinely in this city; but as such marriages oftener produce evil than good, both to the society and the contracting parties, this, I am sure, can be no objection against the Bill.

Another danger said to be apprehended is, that it will put children too much under the power of their parents. Sir, there is no country in the world, there never was a country, I believe, where parents had so little power over their children as they have in this. Among the Jews and the Romans, especially among the latter, and in the infancy of their republic, the fathers had a most absolute and unlimited power over their children, and every thing that belonged to them; and this power continued over the sons as long as the father lived, and over the daughters until he gave them in marriage. Whereas among us, the father has no power over his children, but what is necessary for their education and preservation. Whilst they are young, he may correct them moderately when they are guilty of a fault, and until they come of age he has the custody of any estate that belongs to them, for which he must account as other guardians do. Even this power of being their guardian does not continue so long as in most other countries; for here it ends at their age of 21, whereas in many other countries it lasts till their age of 25. And by this Bill no new power is given to parents or guardians, nor any power but what they are already by law possessed of; for as the law now stands, no person under age can be married in a regular manner, without consent of parents or guardians. Therefore if this Bill proves effectual, which I hope it will, there can be no room for saying, that we have put it out of the power of the father to forgive his child, and to establish the marriage by his future approbation; because the child under age cannot then be married without his previous consent, either tacit or express; consequently, what was quoted from a Latin author by an hon. gentleman who spoke early against this Bill, was very improperly applied: 'Lex est res surda et inexorabilis' is a true and a right saying: the law, it is true, knows no friend but such as are friends to their country; and what is equally beneficial, it knows no enemy but such as are enemies to their country; for such every man is who transgresses the laws of his country: but the hon. gentleman should have told us by whom, and upon what occasion, these words were made use of: it was by the young nobility at Rome, who were conspiring against the liberties of their country, and to restore their tyrant king, Tarquin, because in the new established republic they could not find that pardon for their debaucheries and oppressions, which they had found easy to be obtained from an arbitrary and tyrannical sovereign; and therefore this famous speech is concluded with these words 'periculosum esse, in tot humanis erroribus sola innocentia vivere.'

Now, Sir, with regard to the objections made against this Bill: it is in general objected, that we are going to do what we have not a power to do: that we cannot declare that to be void which is valid both by the law of God and the law of nature. Sir, we are only to declare a marriage void in law, which is not contracted according to the forms prescribed by the laws of this society; and this is what every society may do, and what we have done in a multitude of other cases. Our statute of frauds is an instance of this, and every statute we have made for the limitation of actions is an instance of it. A verbal contract for the sale of goods above 10*l.* is a good contract both by the law of God and the law of nature, though the buyer has received no part of them, or given any earnest; yet that statute has declared it not to be good; and a man is obliged both by the law of God and the law of nature to pay a debt without specialty, though he has not been sued for it within six years, yet the statute declares he shall not be obliged. And even with regard to marriage, I believe, it will be allowed, that if a man and woman seriously and sincerely enter into a marriage contract, without the interposition of a clergyman, or any religious ceremony whatever, it will be a good marriage both by the law of God and the law of nature, yet the law of this society, and, I believe, of every Christian society, has declared it not to be a good marriage; therefore why may not we declare those marriages to be void, which are solemnized by scandalous worthless clergymen in a clandestine manner; for it is really doing no more than what the hon. gentleman said we might do: it is only denying the assistance of the law, for enforcing the performance of such a contract.

Thus, Sir, this general objection must appear to be without any foundation; and as to the particular objections against some parts of the Bill, they will, upon a little

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consideration, appear to be equally groundless. It is impossible to provide by express words, in any law, for all the minute accidents that may afterwards happen in practice. When such accidents happen, it is always deemed sufficient if the general intent and meaning of the statute be pursued. I know of no statute that authorizes an illiterate man's setting his mark, instead of his name, to a deed or writing, either as party or witness, and yet there is nothing more common in practice; and according to this practice, if any of the parties or witnesses to a marriage cannot write, it will certainly be deemed sufficient, if they set their mark to the register, without any express words in the law for authorizing them to do so. And if the rector, vicar or curate be absent or ill at the time, whoever serves the cure for him, may certainly solemnize all marriages at that church, and may in his name, or for him, sign the register, without any express clause for empowering him to do so. Therefore, there is no occasion for any new amendment to this Bill; and, I hope I have fully answered all the objections made against it.

Mr. *William Beckford*:

Sir; what may constitute a Bill to be the same or a new Bill, is a question that may admit of some disputes, and a question, I think, not very material; but if seven new clauses added to a Bill which at first consisted but of sixteen, and every one of those it consisted of at first very much altered, does not make it a new Bill, I am sure, it shews, that the Bill, as sent down to us, was a very inconsiderate and imperfect Bill; and if the other House, with the assistance both of the learned judges, and of the reverend and learned bench, were so much mistaken in its first conception, I am as sure that it is an unanswerable argument for our taking a longer time to consider of it, than is to be allowed by the present question; for the Bill was much longer depending in the other House than it has been in this; and a Bill of so much importance to every man in the kingdom, ought to be made known to every man in the kingdom, before it be passed into a law; especially as several things have been hinted in this debate which, I think, require new clauses or new amendments in the body of the Bill; and one amendment, I am clearly of opinion, we should make to the title, which is that of leaving out the word, 'clandestine.'

But supposing, Sir, that there were no pretence for calling this a new Bill, or for saying that it was very imperfect when it was sent down to us, yet the dangers that are to be apprehended from its being passed into a law ought to prevent our agreeing to it; especially as the evil which it is to prevent is either no public evil, or an evil that so rarely happens, that it is ridiculous to run any the least risk for the sake of preventing it; and of this no better proof can be desired than the exception which now stands in the Bill, with regard to the royal family; for surely it is more the public interest, and we ought to take more care, that none of them shall make an improper marriage, than we have any occasion to do with respect to any other family in the kingdom. As to the dangers that are to be apprehended, if it had been possible to make them appear chimerical, I am sure the hon. and learned gentleman who spoke last would have done it effectually; and his having succeeded so ill in what he undertook, must convince every man who knows him, that all those dangers are most justly to be apprehended; for how comes it, Sir, that the fair sex are so often deceived, deluded and ruined by promises of marriage? Is it not because the betrayer pretends some difficulty or another in going directly to be married? Either he cannot get a licence, or he cannot find a parson, or he has some relation from whom he expects a great fortune, and cannot publicly marry till his death. These are the pretences made use of by men who intend to seduce and betray: these are the pretences by which women are persuaded not to insist upon a previous marriage, but consent to yield upon a promise; for no woman, I believe, ever yielded upon a promise, in hopes of her being able to compel a performance of that promise. Will not these pretences be rendered much more probable and convincing after this Bill is passed into a law? Will not young women oftener be thereby induced to trust to a promise of marriage? And will not deceitful men be more ready to make such promises than ever they were heretofore?

This Bill may therefore, Sir, most justly be entitled a Bill for the ruin of the fair sex; and as to its tending to throw all the wealth of the kingdom into the hands of our nobility, the only answer made to it, was that of affirming its being certain, that all our rich heiresses will not fall to their share: whereas, if we consider that such

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ladies are generally married before the age of 21, and that after this Bill takes place, they cannot marry without the consent of their fathers or guardians, I think we may much more probably conclude in the affirmative: even as to those heiresses who may by chance happen to remain unmarried till after the age of 21, they will generally at that age chuse to be a duchess or a countess, rather than the wife of a gentleman, a squire, or even a baronet; for it was rightly observed by an hon. gentleman upon this subject, that ambition begins at that age to banish love out of the breast of women as well as men. And as to the danger of this Bill preventing marriages among the poor, supposing it granted, which I am very far from doing, that all such marriages in the country are solemnized after a proclamation of banns, is there no difference between making a month necessary for going through that ceremony, and making ten days, perhaps but four, necessary for that purpose? Whoever says so, may as well tell us, there is no difference between making a man fast for ten days, and making him fast but for one, for the same reward. The latter a man may easily do, but the former, I believe, very few men can do, and therefore most men will chuse to go without the reward rather than earn it upon such a hard condition. And as to our seamen, few of them can ever be married at all, for a marriage by licence they cannot bear the expence of, and an industrious seaman never chuses to be at home for a month together. At least, I hope, if the Bill passes, our government will take care never to press a young seaman whilst he is under proclamation of banns; and if this regulation should be resolved on, I believe, they would find very few unmarried seamen to press.

As to that of putting children too much under the power of their parents, no answer has been made to it, but by telling us that parents here are not to have so much power over their children by this Bill, as they have in other countries, or as they had among the Romans. Sir, I know that in the infancy of Rome, parents had an unlimited and ridiculous power over their children; but no such power was ever established, I believe, in any other country. There was never any thing like it among the Persians or Grecians; and even among the Romans, they soon began to limit and restrain this power. But if our nobility should be so fond of following in this respect the example of the old Romans, I hope, they will follow them in another, and send us down a Bill for enacting, that no one of patrician blood shall ever marry a plebeian. If such a law should be passed, I should not much fear their increase in riches: I believe their poverty would soon make them wish to return to the old laws of their country. To be serious, Sir, is it not really ridiculous to enact, that a servant-maid who was turned out of her father's family almost as soon as she could crawl, shall not marry against the consent of her father or mother? And a multitude of cases might be put where it would be as ridiculous to enact, that a young gentleman or lady shall not be married against the consent of a capricious father or mother. This Bill has not been maturely considered, otherwise, I am sure, some regulation would have been contrived for preventing the inconveniences that may arise upon this head, and will arise much oftener, and more probably than that any young gentleman should marry a strumpet, or any young lady a thief or highwayman.

I hope, Sir, I have now made it appear, that the hon. and learned gentleman succeeded very ill in endeavouring to shew, that the dangers to be apprehended from this Bill were all chimerical; and as to the power we have of enacting what is proposed by this Bill, I was sorry to hear the solemn and sacred contract of marriage put upon the same footing with a contract for the sale of goods, or a debt without specialty. A young gentleman who is not married, and is resolved never to marry, may find his private account in ridiculing the marriage ceremony, and persuading women that they may as freely break the promise they made upon marriage, as they may a promise not to go to a rout or assembly; but every man that is married or designs to marry, and indeed, every man who loves his country more than his own pleasure, ought or will endeavour to have a veneration preserved for the marriage vow. Therefore even the legislature neither have nor ought to assume so much power over marriage contracts, as over contracts of any other sort; for the form of the marriage contract, particularly that of its being entered into before a person in holy orders, was not established by the laws of this or any other country, but by the laws of our religion; and therefore, whilst we continue Christians, I am of opinion we cannot declare a contract void,

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which is good and valid by the laws of Christianity. Even in the cases mentioned by the learned gentleman, we may see how cautious the legislature have been; for a contract for the sale of goods is valid by the statute, if the buyer has received any part of them: now, a man who marries a woman, and consummates that marriage, has received a part of what he contracted for: and as to our statutes of limitation, they do not declare the promise of payment void, but only that after such a term of years no action shall be brought upon it, because the law presumes that in that term the promise has been performed.

To conclude, Sir, with the objections that have been, or may be made against particular clauses in the Bill; the learned gentleman may be right in what he says about an illiterate man's putting his mark, instead of his name, to the register, and about another clergyman's signing the register in the name of and for the rector, vicar, or curate; but even he must allow, that both these questions are to be determined by the courts below, and finally by the other House; and I am sure I should not like to have my legitimacy as well as my estate depending upon a question that might, perhaps, be determined against me. But besides these imperfections in the Bill, there is, I think, a very great and dangerous imperfection with respect to another of the clauses that have been added to it; I mean that by which it is provided, that no proof shall be necessary in support of a marriage of the parties dwelling in the parish where the banns were proclaimed or the marriage solemnized; for to enact that any thing shall be done in a certain manner, and yet at the same time to enact that no proof shall be required of its having been done in that manner, is really, in my opinion, ridiculous. If the clause had run, that no such proof should be required after the death of the parties, or after a certain time, there would have been some sense in it: but to leave it as it now stands will, in my opinion, expose us to the contempt of every thinking man in the kingdom; and at the same time it seems to import, that the register of the marriage shall not be a full proof of its being a valid marriage in the terms of this act; but that the grandchild shall prove, that both his father and grandfather were married by proclamation of banns, or a regular licence, in order to entitle himself to the honours and estate of his family. How far back the lawyers of future ages may, for their own benefit, carry this necessity, time only can determine; but it shews that this clause is dangerous as well as ridiculous; and this is a manifest proof that the Bill has not been considered in this House more maturely than it was in the other; for which reason, among many others, I must be against its being passed into a law.

The Bill was then passed by a majority of 125 to 56, and sent back to the Lords.

*Debate in the Lords on the Clandestine Marriage Bill.**] June 5. A Message

* HARDWICKE PAPERS. Letter from the Rev. Dr. Birch to the Hon. Philip Yorke. London, June 9, 1753.

"Dear Sir; my own inclination concurred with your desire in determining me to attend the issue of the Clandestine Marriage Bill in the House of Lords on Wednesday, after I had devoted so many days and nights to the progress of it in the Commons. When the clerk had twice read the Amendments, his grace of *Bedford* declared with some vehemence, that as he had all along opposed the Bill before it was sent down to the other House, he should now use the right, which he had, to object to it in its present state, altered as it was throughout and made almost an entire new one. He then began to remark at large upon those Amendments in a continued speech, as dissenting from most of them, till he was reminded by my Lord Chancellor, that the regular course was to state his objections to each particular alteration during the third reading of them. This shortened the train of the duke's eloquence, and when he opposed the first Amendment, lord *Sandys* spoke for it, protesting, that, as he had long wished for such a Bill, he should himself, and hoped the House would, agree to all the alterations rather than hazard it.

"The last Amendment, That the Bill should not extend to marriages to be performed abroad, was opposed by his grace, because, he alleged, it would endanger the execution of the whole Bill, since it would be easy for people to pass over to Calais, Boulogne, &c. He added, that he was sorry to see himself so ill supported, and that a Bill of that importance should have been *crammed* down, and *forced through* the parliament.

"These expressions called up lord *Bath*, who justified both the design of the Bill and the manner of carrying it on, claiming to himself the honour of having moved for it, and urging the necessity of doing what all other nations had done, and what Ireland had found no ill effects from, but many good ones, and only complained of the want of such a law in England, whither their people resorted

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was brought from the Commons, to return the Bill, intituled, "An Act for the better preventing of Clandestine Marriages;" and to acquaint this House, that they have agreed to the same, with several Amendments, to which they desire their lordships' concurrence. Ordered, That the said Amendments be taken into consideration to morrow; and the Lords to be summoned.

June 6. The House proceeded to take into consideration the Amendments made by the Commons to the said Bill: and the said Amendments being read twice by the clerk, were agreed to.

The King's Speech at the Close of the Session.] June 7. The King put an end to the Session with the following Speech to both Houses:

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to evade that of their country. His lordship took notice of the manner of the opposition to the Bill, in which, he said, the merits of it had the least share.

"My *Lord Chancellor* then rose, and began a most spirited speech of near three quarters of an hour, with declaring his concurrence to all the Amendments, though some of them evidently weakened the Bill as sent down from that House, since the substance of it was of so much moment to the nation, and these defects might be supplied by a subsequent one. He hoped their lordships would act as their predecessors had done in the case of the Act of Succession under king William, (if he might compare great things with small) when the Commons, who were generally thought ill-affected to it, clogged it with many impracticable limitations, in order to prevent their lordships from passing it, who on the other hand, wisely consented to the whole, for the sake of securing the Succession itself, resolving to wait for some future opportunity to retrench the exceptionable Clauses connected with it. He then expressed his surprise at the duke of Bedford's complaint of the Bill's having been crammed down and forced through the two Houses, which had been brought into that of their lordships towards the end of January, and lain five weeks before the Commons. And he could not avoid declaring his astonishment, that a Bill so long called for, and so often attempted, and now at last introduced not by a single lord, but the whole House, prepared by the judges, improved by the almost joint sense of their lordships, authorized by the concurrence of the reverend bench, and drawn up with a retrospect to past offences, should have been stiled out of doors an *absurd*, a *cruel*, a *scandalous*, and a *wicked* one. It would not, indeed, have been surprising, that young men in the warmth of their constitution, should be averse to any regulations, which seemed to interfere with their passions and sanguine pursuits: but it was very extraordinary to see grave and solemn persons turn a law so necessary for the public good into an engine of dark intrigue and faction, and into an occasion of forming a party, and trying its strength. But their opposition had been attended with an event, which they little intended, and had raised a zeal in favour of the Bill, which had secured its success. His lordship then animadverted upon the profligacy of the principles avowed by these enemies of it, and the unbounded contempt and reproach thrown out upon the whole system of our law and its professors and the several courts of justice. But with regard to his own share in this torrent of abuse, as he was obliged to those who had so honourably defended him, 'so,' said he, 'I despise the invective, and I 'despise the retractation; I despise the scurri-'lity (for scurrility I must call it) and I reject 'the adulation.' But these candidates for power give a sufficient warning to the public what may be expected from them: for as there are but two schemes of government, law and force, and they have declared their contempt for the former, they shew what they are likely to have recourse to: and, indeed, this open contempt of the law is but one step short of a design to overthrow our constitution, by abolishing the law, which would in fact deserve it, if it were, as they had described it, a heap of inconsistency, confusion, perplexity, and absurdity. There were some other persons, who profess, and undoubtedly have, a reverence for the law and religion of their country, who yet through a mistaken notion of that religion, or adopting that mistake from some particular view, had opposed the Bill upon the supposed indissolubility of marriage; and yet these had fallen into an inconsistency, usual in error, by extending the prohibition, which prevented these contracts, which they represented as sacred, from being carried into execution afterwards by law. At the conclusion of his lordship's speech, and after one of the bishop of Oxford, the Amendments were immediately agreed to without a division.

"Mr. Fox was not present, but had soon an account of what passed, for the same evening being at Vauxhall with some ladies, he broke from them, and collecting a little circle of young members of parliament and others, told them with great eagerness, that he wished the session had continued a fortnight longer, for then he would have made ample returns to the Lord Chancellor's speech. I did not hear that of the Speaker to his majesty on Thursday, but I am assured that it was an attack upon the justice of the Marriage Bill and the authority of parents, who, he affirmed, had never occasion to complain of the disobedience and ill-conduct of their children, unless they afforded them a good example and a good education.

"The Speaker talks of my Lord Chancellor's Speech in the style of Mr. Fox, as deserving the notice of the Commons, if they had not been prorogued."

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" My Lords and Gentlemen,

" The season of the year is so far advanced, and the business before you so entirely finished, that it is necessary to put an end to this session of parliament. The zeal which you have shewn for my person and government in all your proceedings, calls for my sincere thanks; and the care and assiduity you have exerted, in making such provisions as may advance the commerce of my subjects; supply and extend their manufactures; and put a stop to some disorders that require reformation; are no less agreeable to me, than they are proofs of your prudence, in laying hold of this time of tranquillity to make domestic improvements.

" The state of foreign affairs has received no material alteration since your meeting. You may depend on my steadily pursuing the same principles and ends, which I then declared to you. To preserve the peace; to consult the real prosperity of my people; and, at the same time, to assert and maintain the honour and just rights of my crown and kingdoms; are the fixed objects of all my measures.

" Gentlemen of the House of Commons,

" In granting the supplies for the current year, you have equally shewn your concern for the public service, and your regard to the ease of your fellow-subjects. I thank you for both: as well as for providing, with so much foresight, for the future augmentation of the Sinking Fund.

" My Lords and Gentlemen,

" I have nothing to desire of you, but what I am persuaded you wish for yourselves. Do your utmost endeavours, in your several countries, to promote the true interest and happiness of my people; to propagate industry; and to preserve good order and regularity amongst them: make them sensible of the blessings they enjoy; and by these means, the quiet and security of my government will be best established."*

The parliament was then prorogued to the 14th of August. It was afterwards further prorogued to the 15th of November.

* " A female Quaker, who was in the House to see the king on the throne, began to hold forth as soon as his majesty was gone, against the vanity of dress, and preached for half an hour." Gentleman's Magazine.

SEVENTH SESSION OF THE TENTH PARLIAMENT OF GREAT BRITAIN.

The King's Speech on Opening the Session.] November 15, 1753. The King came to the House of Peers, and opened the session with the following Speech to both Houses:

" My Lords, and Gentlemen,

" I have called you together as early as your attendance upon your private affairs would admit; and I am confident that you are all met with the best dispositions to give such application and dispatch to the business of this session, as may be most conducive to the public utility. The events of this year have not made it necessary for me to offer any thing in particular to your consideration relating to foreign affairs. The continuance of the public tranquillity, and the general state of Europe, remain upon the same foot as when we last parted; and you may be assured of my steadiness in pursuing the most effectual measures to preserve to my people the blessings of peace.

" Gentlemen of the House of Commons,

" I have nothing to ask of you but the necessary Supplies for the ordinary services of the ensuing year, and such as have already been under your consideration. I have ordered Estimates to be laid before you; and, from the experience I have had of your constant regard for my honour, and the security as well as ease of your fellow subjects, I entertain no doubt of your making the proper provisions for these purposes.

" My Lords, and Gentlemen,

" I am sorry to be obliged again to mention to you a subject which reflects dishonour upon the nation, as well as creates great danger and mischief to my good subjects: it is with the utmost regret I observe that the horrid crimes of robbery and murder are, of late, rather increased than diminished. I am sensible that works of reformation are not to be effected at once; but every body should contribute their best endeavours: and let me earnestly recommend it to you, to continue your serious attention to this important object. Whatsoever shall be found

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expedient, either in this or any other respect, for the welfare and happiness of my people, shall meet with my hearty concurrence and support."

The Lords' Address of Thanks.] His majesty having retired, Lord Delaware moved the following Address, which, being seconded by Lord Cathcart, was agreed to:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks, for your most gracious Speech from the throne.

"Every opportunity of approaching your sacred person furnishes us with new matter for acknowledging your majesty's constant and unwearied attention to the welfare of your kingdoms, which is in no instance more conspicuous than in your vigilance to preserve to them the blessings of peace. Our just confidence in your majesty's pursuing the most effectual measures for this purpose is equal to those grateful sentiments with which our hearts are filled on this occasion: the honour and security of the nation both at home and abroad, the maintenance of our religion and liberty, the protection and extension of our commerce, and every branch of the national happiness, are the objects of your royal care, wisely and steadily exerted for the common good of your people.

"It gives us the utmost concern, that it should be necessary for your majesty again to take notice of the increase of those horrid crimes of robbery and murder, which are arrived at so great a height. We are duly sensible that your majesty's justice is never wanting, to protect the innocent, and punish the guilty; and it shall be our constant endeavour, to enforce and add vigour to the laws for bringing such audacious and obstinate offenders to punishment. Your majesty, like a true father of your people, has often graciously recommended to us the salutary work of reformation, which, though it proceeds too slowly, we will not fail to promote to the utmost of our power.

"Nothing shall be wanting, on our part, to answer your majesty's just expectations, that the public utility shall be our rule in carrying on the business of this session: and we humbly intreat your majesty to accept our strongest assurances, that, as the continuance of your precious life is the subject of our ardent wishes and prayers; so the support of your government, the glory of your auspicious reign, and the preservation of the Protestant succession in your royal family, are, and shall be, the invariable principles and aim of our conduct."

The King's Answer.] The King returned this Answer:

"My Lords;

"Nothing can be more agreeable to me than this very dutiful and affectionate Address. I thank you for it: and, as my great aim is your lasting prosperity, be assured, that the confidence you repose in me shall be made use of for the honour and true interest of the nation."

The Commons' Address of Thanks.] The Commons being returned to their House, Mr. William Lyttelton moved the following Address, which, being seconded by Mr. Colleton, was agreed to without debate or division:*

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Speech from the throne.

"And we assure your majesty, that we

* "Many circumstances concurred to make this one of the most unanimous sessions ever known in the House of Commons. Mr. Pelham's candour and punctuality in fulfilling all his professions, whether public or private, had gained him many proselytes, and even some of the warmest of those who called themselves the country party; while they who were inclined to oppose him, on views both of interest and ambition, found they only exposed their own weakness in attempting it. The party that had been formed against him, during the lifetime of the late prince of Wales, was now dissipated, and a wonderful spirit of loyalty began to take place all over the kingdom, which was chiefly owing to the affectionate manner in which his majesty, the princess of Wales, and the royal progeny, had lived within themselves. The reciprocal marks of endearment between his majesty and them, touched the hearts of the subjects, and the unanimity without doors corresponded with that within. Add to those considerations, that this being the last meeting of the parliament in the House of Commons, the session was but thin; gentlemen being employed in making interest for their being re-elected; and those who attended, saw the stream of popularity run so strong in favour of the court, that they thought it imprudent to oppose the ministry." Tindal.

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will not fail on our parts to give such application and dispatch to the business of this session as may be most conducive to the public utility.

"The happy continuance of the general tranquillity calls upon us to express our gratitude to your majesty for your constant attention to an object so essential to the interest of your people, and we have the utmost confidence in your majesty's wisdom and steadiness, that you will pursue the most effectual measures for preserving to this nation the inestimable blessings of peace.

"We beg leave to assure your majesty, that we will cheerfully raise such supplies as shall be found necessary for the services of the ensuing year.

"Nothing can be more pleasing to your faithful Commons, than to receive fresh marks of your majesty's gracious approbation of our past zeal and regard for your honour, as well as for the security and ease of our fellow subjects.

"We lament, with the deepest concern, that the methods hitherto attempted to repress and prevent the horrid crimes of robbery and murder, so grievous as well as dishonourable to this nation, have proved ineffectual; but we assure your majesty, that however difficult the task may be to reform, or even restrain, the desperate and abandoned, we will nevertheless persevere in our serious endeavours to provide, if it be possible, a more adequate remedy against such enormities, being fully persuaded, from an uninterrupted experience of your majesty's goodness, that we shall be assisted by your majesty's concurrence and support in every measure that shall be found expedient in this, or any other respect, for the welfare and happiness of your people."

The King's Answer.] The King returned this Answer:

"Gentlemen;

"I thank you for this dutiful and affectionate Address. You may firmly rely on my best endeavours to promote, on all occasions, the true interests and happiness of my people."

*Debate in the Lords on the Repeal of the Jews Naturalization Bill.**] On the same day, the duke of Newcastle presented to the House a Bill, to repeal so much of an Act, of the last session, intituled "An Act to permit persons professing the Jewish religion to be naturalized by parliament, and for other purposes therein mentioned," as relates to the naturalization of such persons: which occasioned the following debate:*

The Duke of *Newcastle*:

My lords; your lordships must be all apprised of the unexpected effect which the act passed last session for enabling the Jews to be naturalized by parliament, has had upon the people without doors; and, I believe, most of you are convinced, that this effect is far from being a natural one, but an effect produced by the artifice of those who are secretly enemies to our present happy establishment and who in consequence thereof endeavour to misrepresent every act of the legislature, and every measure pursued by the government. When the Bill for this purpose was last session brought into parliament, I did not, indeed give much attention to it, as I thought it a matter of little or no importance, whether the parliament should have power to naturalize a Jew upon his applying for such a favour, or whether we should continue under the restraint first imposed by an act of king James 1. I knew that every Jew born here was, by the common law, a natural born subject, and I knew that such as were not born here might be naturalized by residing for seven years in our plantations in America, or by engaging in some particular sorts of manufactures here at home. As many Jews had been, and as most might be naturalized by one or other of these methods, I thought it of no great importance, whether the restraint should be taken off, which the parliament had been laid under by our zeal against popery in that reign. I say, my lords, our zeal against popery; for it was against popery only the act was designed: the high-church party, indeed, might design it against dissenters; but the most general and avowed design of the act was against

* From the London Magazine.

* "November 15. The parliament opened. I went to hear the Speech, which was very unexceptionable. In the House of Lords, the duke of Newcastle brought in a Bill to repeal the act of last session in favour of the Jews. Doctors Secker and Drummond, of Oxford and St. Asaph, spoke for the repeal, with sentiments of charity, comprehension, and liberty of conscience, highly becoming them, and to the honour both of the Church and State." Dodington's Diary.

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the naturalizing of papists; for Jews, I believe, were not so much as once thought of upon that occasion. However, as it is certainly an advantage to the nation to bring as many rich foreigners to reside amongst us as we can, I thought, and I think still, that the act might do some good, and could never of itself produce any national evil; and as the act for naturalizing such Jews as should reside seven years in our plantations, had passed without any objection within doors, or any murmur without, I did not imagine that our enemies would attempt to make this act a handle for raising discontents among the people; far less did I imagine they would succeed in such an attempt. But to my great surprise they have succeeded, I believe, even beyond their own expectation. They have succeeded so far that, in my opinion, no good can be expected from the act, and if continued it may be productive of great evil.

Notwithstanding the clamour that has been so artfully raised, and so industriously propagated without doors, against this act of the legislature, yet, my lords, if the public interest or happiness were intimately connected with the continuance of this act, I should be for taking no notice of the clamour, because I should depend upon its subsiding entirely as soon as the people came to be well informed, to consider coolly the design of the act, and to be sensible of its good effects. But the act is in itself of so little importance, that I cannot think the public interest or happiness any way concerned in its continuance or repeal; and the popular clamour that has been raised against it will prevent any good effect it might otherwise have had: nay, I do not know but that this clamour might prevent many rich Jews from taking advantage of those laws we formerly had in favour of their naturalization, or their living amongst us; for no man who can live quietly and securely, as a rich Jew may in most of our neighbouring countries, will chuse to live in a country where he is likely to be the butt of popular malice and resentment. Therefore, if the public interest or happiness be any way concerned, it must, in my opinion, plead for the repeal of this act; and I am very sure that those who have been the most industrious in raising a clamour against it, will be the most sorry to see it repealed.

These reasons, my lords, have induced me to prepare a Bill for repealing this act, which I shall take the liberty to present to the House; but before I do so, I must observe to your lordships, that there is in the act one clause which ought, I think, to remain in force: the clause I mean is that by which persons professing the Jewish religion were after the 1st of June last disabled to take any advowson, or any right or interest in or to any ecclesiastical living or promotion, school, hospital, or donative, or any grant of an avoidance thereof. This clause, I say, ought to remain in force; for though a Jew may be an honest man and a good countryman, yet I do think it a little unseemly that a Jew, whilst he professes the Jewish religion, should have a right to any sort of estate set apart for the propagation of Christianity. Therefore the Bill I am now to offer to your lordships contains a general repeal of the act passed last session, except in so far as relates to this, which is the last clause of the act; for the saving of which I have added a particular proviso, and shall conclude with moving that the Bill be read a first time.

Earl *Temple*:

My lords; whatever clamour may have been raised without doors, or whatever regard may be shewn to that clamour within, though I should stand single and alone, I will oppose, to the utmost of my power, the repeal of the act for enabling the legislature to naturalize such Jews as shall desire the favour, and such as the parliament may think deserve the favour they ask: for supposing the act itself were of no importance, I must think it inconsistent with the dignity of every branch of the legislature to pass a law one session and repeal it the very next. But with regard to the importance of the act, I must differ from the noble duke who has proposed the repeal of it: I must think it a law of very great importance, because I am convinced, that it will in a few years bring a considerable addition of wealth into this kingdom, and contribute to the increase of our manufactures, the extension of our commerce, and the enlargement of our navigation; and I do not think that any one of these effects will be prevented or retarded by the ridiculous clamour that has been raised against it. The Jews know that in all countries, especially popish countries, they are exposed to the malice and resentment of the enthusiastical bigotted part of the people; but where they have the laws of the country for their

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protection, they depend upon that protection; and they know that after being naturalized here, they may more securely depend upon that protection in this country, than in any other; because our laws are not so liable to change, and because no change is ever made to the prejudice of private property, without making good the loss every private man may sustain by that change. It is, therefore, a reflection upon our government, and especially upon our present administration, to suppose that any Jew of common sense will be frightened from coming or continuing to reside in this kingdom, by the clamour that has been raised among the very lowest of our people, against this act for permitting such Jews to be naturalized as shall be deemed worthy thereof by our legislature.

But, now my lords, with regard to the clamour that has been raised, in the first place, it is generally owing to a mistake, for the unthinking people have been made to believe that the Jews act, as they call it, is an act for a general naturalization of the Jews, in consequence of which they are told, we shall presently have many thousands of Jews come to settle in this country, and to interfere with the natives in all sorts of trade and business: among such people, therefore, the clamour must cease as soon as they find they have been imposed on, which may probably be before the end of this session. In the next place, this clamour proceeds chiefly from Jacobitism, or from a spirit equally bad, an unchristian high-church spirit. Ought either of these spirits to be yielded to? Ought not both to be crushed at any risk? Nay, your lordships yielding in this particular point will signify nothing: you must repeal the Plantation act: you must persecute the Jews by excluding them from almost all the benefits of society: even this will not satisfy: you must repeal the Toleration act, and put all dissenters upon the same footing with Jews; for we may judge of the spirit that prevails among that party in the city who have been the chief authors of this clamour against the Jews. As they are most of them great lovers of the bottle, and fond of any thing that provokes drinking, they pride themselves in coining new toasts, and I am well assured, that one of the toasts lately coined, and now much in vogue amongst them, is "No mass-house, no conventicle, no synagogue, High church for ever!

Among such a party, my lords, and I am afraid they are still too numerous in this kingdom, you cannot expect to put an end to the clamour, by singly repealing the act passed last session in favour of the Jews; and I am very sure they do not from this government deserve to have an act of such importance repealed, purely for the sake of humouring them. I say, my lords, an act of such importance; and to shew that it is so, I shall consider it in a religious light, a political light, and a commercial light. In the first of these lights we all know, that universal charity and benevolence is the very corner stone of the Christian religion, therefore every true Christian must think it inconsistent with Christianity to exclude any set of people from the common benefits of mankind, merely on account of differing from us in any points of religion; and shall the clamour of any number of bigotted enthusiasts induce us to act against that which is one of the chief principles of the religion we profess? Did this House act in such a manner at the beginning of the late reign? At that time there was a much more universal, and a more violent clamour raised by the same sort of people about the danger of the Church, than has been raised against this act: a clamour so violent, that it broke out in sedition, and in riots at many places. What did the legislature do upon that occasion? Did they yield, did they give way to the clamour? No, my lords, they did as a legislature ought always to do, they were active against it. Instead of doing any thing to pacify the high church mob, they took measures to reduce and bridle them: they repealed the Occasional Conformity and Schism acts, which that party had got passed in the dotage of queen Anne's reign: to put an end to the riotous high church mobs, they passed the Riot act; and to prevent any future popular commotion, as well as to establish our government upon a more steady foundation, they passed the Septennial act; which was indeed an extraordinary step, and such a one as, I hope, no parliament will ever again be obliged to make; for we must allow it was something extraordinary in a House of Commons, chosen by the people for three years only, to continue themselves for seven.

Then, my lords, to consider this act in a political light, is there any set of people in the kingdom, who have shewn themselves more zealous than the Jews have done for the support of our present happy establishment? Is there any set of people

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who have contributed more towards the support of our public credit, and towards enabling us to reduce the interest payable upon our public funds? Surely, then, they deserve at least to be put upon an equal footing with other foreigners, which is all that is aimed at by the act now proposed to be repealed. If we are resolved honestly and fairly to pay off and discharge the debts of the nation, I will say, that a further reduction of interest is the best, and, I fear, the only method we can take; and I will further say, that the continuance of this act will contribute more towards rendering this method practicable, than any other method we can take; for that there are multitudes of Jews in foreign countries who have large sums of money which they would be glad to lend at a very moderate interest, I believe no one can doubt; and if they could be naturalized, I am convinced, that most of them would not only send their money here to be laid out upon the purchase of some of our public funds, but would come over and settle their families here, as soon as they could disengage themselves from the place where they are now settled. Other foreigners may, and many of them certainly do employ their money in our public funds; but most of them chuse to pay commission for managing their money rather than come to settle themselves here, because of the attachment they have to the place of their nativity, where they have, or may have a share in the government of their country: but Jews have no such attachment to the place of their nativity; therefore most of them would either come along with their money, or follow it hither as soon as they could; and consequently it is more our interest to render Jews capable of being naturalized than any other foreigners whatsoever. How ridiculous, how pusillanimous, will it then be in the legislature to run so much counter to the national interest as to repeal a law absolutely necessary for this purpose, merely for the sake of pacifying a giddy misled populace?

But such a repeal, my lords, will appear still more ridiculous, when we consider this law in a commercial light. That the Jews, since their re-admission into this kingdom, have contributed greatly to the extension of our commerce, no man can deny: that they now export yearly large quantities of our manufactures, is known to every merchant in the city and every officer of the customs; and if they had been admitted into a share of our Turkey trade, I am persuaded, it would never have been reduced to the low pass it is now at. Of this the legislature was but last session made so sensible, that a law was passed for laying the Turkey trade open; and as another necessary measure for retrieving that trade, they passed this law for enabling us to naturalize such Jews as might be of service for that purpose. We then judged very rightly, that every man will be more sanguine for advancing the trade, and recommending the manufactures of a country, where he may be naturalized when he pleases, than of a country where he is incapable of being naturalized without abjuring his religion; and as the Jews are the chief brokers in Turkey, we then thought it proper to engage their favour by rendering them capable of being naturalized in this country. And, my lords, it is not only in Turkey, but in every part of the known world, that the Jews may be of advantage to our commerce; for there are some of them settled as brokers or traders in almost every country, and as they keep a general correspondence with one another, they have a better opportunity than any set of people whatever, for learning where any of our manufactures may be disposed of to advantage, and where all sorts of foreign commodities may be purchased at the cheapest price. We may therefore most reasonably conclude, that the more Jews we have settled amongst us, the more the nation has of the good will of those that are settled abroad, the more our commerce will be extended, and consequently the more our navigation and our maritime power will be increased.

Thus, my lords, if we consider this law in a religious, a political or a commercial light, we must conclude that it is a law of too much importance to be repealed, merely for the sake of an ill-grounded clamour that has been raised against it; and another reason of equal weight against the repeal of it upon that account, is, that we shall thereby lose our character for steadiness and resolution. The advantage which this nation has over its neighbours, and the advantage which makes foreigners so fond of being naturalized and settling their families in this kingdom, is the certainty and unchangeableness of our laws. By this they are made secure of enjoying and transmitting to their posterity not only the property they bring along with them, but also the privileges they acquire by their naturalization. But if the making and unmaking laws should once in this country

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come to depend upon the *popularis aura*, they will become as uncertain and as changeable as the laws of the most arbitrary and the most whimsical monarchs. Then, indeed, it would be ridiculous to make any law for naturalizing foreigners, either Jews or Christians; for instead thereof we should find it necessary to make such a law as they have in Russia, which makes it criminal for any foreigner once settled there, to go out of the country without a licence from the crown; but this, I hope, your lordships will prevent, by refusing to pass the Bill which the noble duke has been pleased to lay before you.

Lord Chancellor *Hardwicke:*

My lords; if it be an advantage to the nation to have a great number of Jews living amongst us: if our commerce and navigation be thereby extended, and our manufactures increased, it is so far from being an argument against, that, in the humour the people seem to be in, it is an argument for the repeal of the law passed last session. I shall grant, that the Jews, whilst they are here, and whether they be naturalized or no, are under the protection of our laws. By our laws they may be protected from any open violence or direct assault; but whilst the people are so highly and so generally exasperated against them as they every where appear to be at present, they will be exposed to daily insults and vexations which no law can provide against or punish, especially in this country, where no man, not even the king himself, is vested with absolute power, and where every magistrate is obliged to confine himself within the letter of the law. Therefore, whilst the people continue in their present humour, it will be impossible for any Jew, rich or poor, to live here with the same ease and security which he did before that law was passed; and this will not only prevent any foreign Jews from coming to be naturalized or to live here, but will drive many of those who are now here, and perhaps were born here, into foreign countries.

There is no answer, my lords, to be made to this argument, but that of insisting that the present ill humour of the people will soon subside, and that the people will patiently submit to the law when they find it is not to be repealed. But I am so far from being of this opinion, that I am convinced the ill humour of the people would before now have broke out into violence, if it had not been for the hopes they had, that as soon as the parliament met the law would be repealed; and if they were to see two or three dozen of their countrymen hanged every session for mobbing or murdering the Jews, I believe it would not contribute towards restoring them to good humour, especially as many of them would find, or at least imagine, that the Jews interfered with them in their trade or business. If the safety and happiness of the nation depended evidently upon this law being continued and carried into execution I should be against the repeal, not because I should be for cramming even the most wholesome physic down the throats of my countrymen, but because I have an opinion of their good sense, and from thence should expect, that they would in a little time, discover the utility of the law, and repent of the opposition they had made to it. This was the case at the beginning of the late reign; a blind, zealous, persecuting spirit had been, for very bad ends, industriously propagated, and then generally prevailed among those of the Established Church. This spirit it was necessary to crush: both the safety and the happiness of the nation absolutely required that it should. The legislature therefore did right to take proper measures for putting an end to it: it would have been downright madness to have yielded to madmen. What was the consequence? As soon as the people had time to consider and to cool, they saw their folly, and approved of what had been done.

Can this, my lords, be supposed to be the case with respect to the law now proposed to be repealed? It might in time perhaps have been of some advantage to the nation, by bringing a greater number of rich Jews to reside amongst us, and making their brethren, wherever resident, more zealous in the service of this country; but surely the safety and happiness of the country cannot be said to depend upon its being continued. Whilst the Jews are treated with such indulgence from the government, and with such civility from the people, as they were before the passing of this law, many of the rich will be coming over yearly to settle amongst us, because they know that their children born here will of course be naturalized; and when the Jews abroad are apprized of their brethren being treated here with more humanity and respect than they are in any other countries, they will in gratitude contribute as much as they can to

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the advancement of our commerce in the places where they respectively reside. I cannot, therefore, think it a matter of any great consequence, whether a Jew be ever naturalized by parliament or no; and to yield in such a case to a prevailing humour among the people is not only right, but is founded upon the example of one of the most wise and steady governments we ever had: I mean that of his late majesty. In the 7th year of his reign, an act was passed for preventing the spreading of the plague in case the nation should be visited with that terrible calamity, in which there were some clauses empowering his majesty to appoint lazarets for receiving and taking care of persons infected, to remove persons infected to such lazarets, to make lines about places infected, and to plant guards in those lines for preventing any persons coming out of such places. Though these were all very proper regulations, though the people were then in the utmost consternation for fear of the plague which was at that time raging at Marseilles in France, and though the act was to continue but for three years, yet the enemies of the government found means to raise a popular clamour against it: the cry was every where, "No barrack hospitals! no red coat nurses!" and the ferment among the people became general.*

What did the legislature do upon that occasion? Did they insist upon continuing the law they had made? No, my lords. They saw the enemies of the government had made use of it as a weapon against them, and therefore they resolved to disarm them of this weapon, by repealing those clauses the very next session. We are now in a case exactly similar. The act passed last session for admitting the Jews to be naturalized by parliament, might have done some good: I do not think it could ever of itself have done any harm. But the enemies of the government have found means to instil into the people a very different opinion, and have thereby raised a general clamour against it. To the honour of the present administration I may say, it is the only weapon they now have against us. Ought not we, then, to wrench this their only weapon out of their hands as soon as we can? Ought we not for the sake of the people as well as our own to remove this stumbling-block out of the way of the weak but well-intentioned? Therefore the sooner we repeal this law, the better it will be for us, the less use our enemies can make of it against us. If it were of much greater importance than it is, I should be for repealing it; for however much the people may be misled, yet, in a free country, I do not think an unpopular measure ought to be obstinately persisted in. We should treat the people as a skilful and humane physician would treat his patient: if they nauseate the salutary draught we have prescribed, we should think of some other remedy, or we should delay administering the prescription till time or a change of circumstances has removed the nausea. This may happen in the present case: whilst the act subsists the ferment of the people will subsist with it, and no one can tell how violent it may grow; but after the act is repealed this ferment will soon subside: the people will grow cool: they will then consider the consequences of the act, had it subsisted, without prejudice: by so doing they will discover the advantages that might have accrued from it, and that all their apprehensions were groundless; and then they may as generally desire to have it revived, as they formerly did to have it repealed.

My lords, I shall most readily agree with the noble lord who spoke last, that those who were the authors of the clamour against this act, will not be satisfied with its repeal: on the contrary, I am sure, they will be very sorry for it; and I make no doubt of their endeavouring to stir up the people against the Plantation act, but I am not in the least apprehensive of their success. The Plantation act is of a nature very different from the act now proposed to be repealed. It has been in force for many years, and many Christians as well as Jews are concerned in its preservation. Many of both religions have in consequence thereof transported themselves, and embarked their whole fortunes in our plantations. With regard to them, therefore, the public faith is engaged, that the act shall never be repealed. A repeal of it even with regard to the Jews would be a breach of public faith, and would prevent any Protestant Christian from trusting to it for the future; which would put an end to that increase of inhabitants our plantations receive yearly from almost every Protestant country in Europe. Even with respect to the Jews, the discouraging of them to go and settle in our American colonies, would be a great loss to, if not the ruin of, the trade of every one of them; for we know that the trade which gives

* See Vol. 7, p. 929.

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life to the whole, a trade which I do not for very good reasons chuse to name, is chiefly carried on by the Jews, by means of the correspondence they have with their brethren in other parts of America, and without which no such trade could be carried on.

To repeal that law, therefore, my lords, even as to the Jews, from the very beginning of its commencement, would be of such fatal consequence to our plantations, and such a breach of public faith, that I am sure no man who has any regard to the happiness, the credit, or the character of his country would desire it; and if you were to make the repeal commence at some future time, what time could you fix on for that purpose? As many Jews have lately gone thither, as many are now a going, and have sent some part of their fortune before them, or have put themselves to considerable expence in preparing to go and settle there with their families, you could not make the repeal to commence sooner than ten or a dozen years hence; and were it even to commence at such a distant time, it would be in some measure injurious to those that are already settled there; because when they went thither, they went upon the faith of a perpetual law, and expected to be followed by many of their brethren and by some of their friends or relations, otherwise they would never, perhaps, have resolved to run the risk of such a long voyage, or of going to settle in such an unknown climate.

For these reasons, my lords, whatever the enemies of the government may attempt, I have too good an opinion of the good sense of the people, and of their regard to public justice, to imagine that they can be prevailed on to desire a repeal of the Plantation act; and much less can I imagine that they can be prevailed on by any art or industry to desire the repeal of the Toleration act, or that any sort of persecution should be set on foot either against the Jewish or any other sect of religion. I am persuaded, that they will be fully satisfied with the repeal of the act passed last session; and as it is an act of so little importance, I think, we should not refuse them this satisfaction. Therefore I shall be for agreeing to the Bill now offered to us by my noble friend.

The Duke of *Bedford*:

My lords; I rise up to agree with the noble duke who presented this Bill, and with the noble lord who spoke last, so far as to think, that the law passed last session for enabling us to naturalize the Jews, ought to be repealed; and in this I can agree with the greater freedom, as I then openly declared against the Bill being passed into a law; but then I think the repeal ought to be general, and without any such exception or proviso as the noble duke has been pleased to insert in this Bill; for with such a proviso, if it remains in the Bill, I shall oppose as much as I can its being passed into a law, because I should rather chuse to have the law passed last session to stand without a repeal, than that it should be repealed with such an exception, and my reason is very evident: whatever opinion the noble duke may have of our common law, with respect to Jews born in this kingdom, I must think, and I have the best authorities for my opinion, that no Jew born here can be deemed a natural born subject whilst he continues to be a Jew, or intitled as such to purchase and hold any real estate longer than our sovereign pleases to allow him to hold or possess such a purchase. This was, this is still, I think, the common law of this kingdom; but as this has been lately brought into doubt by the opinion of some of our modern lawyers, who seldom give themselves the trouble of studying our ancient records, and much less the constitution of our government, I shall be against inserting in an act of parliament any clause or proviso, or any words that might seem to confirm or establish their opinion, which would be the effect of the exception or proviso proposed by this Bill: for it is a known rule in law, that 'Exceptio firmat regulam in casibus non exceptis;' therefore to enact, or rather to leave it enacted, that no Jew though born in this kingdom, whilst he continues a Jew, shall purchase or hold any real estate relating to the church, is in effect to enact, that such Jews may purchase and hold all other sorts of real estates, which would, I think, be of the most dangerous consequence to our government both in church and state.

I say, my lords, both in church and state; for the reverend bench must not imagine that the former would always be preserved by our laying the Jews under a disability to purchase any thing relating to the church, if at the same time we empower them to purchase all the lay fees in the kingdom. Their power will increase with their property, and as their power in-

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creases their privileges will increase. Even at this time they are indulged with the privilege of having public synagogues, though expressly contrary to law; and after a great number of them have been naturalized by being born here, or by the American act, we could hardly refuse establishing this privilege by a new toleration act in their favour. The next boon they would probably obtain, would be a general naturalization of all their brethren; and then I may venture to prophesy, that the Jews would be the highest bidders for every land estate brought to market in this island, by which means they might at last get possession of all the lay fees in the kingdom. As dominion always will follow property, could we in this case expect they would submit to continue under the disability now proposed to be laid upon them with regard to estates relating to the church? No, my lords, they would not only repeal this law, but every law for establishing Christianity, and establish Judaism in its stead. They might then call this island their own land, and whatever respect some of the superstitious among them might retain for their prophecies, every sensible man would think, they had made a happy exchange; for this island flows as much with milk and honey as the land of Canaan ever did, and it is more secure by being less liable to be invaded by powerful neighbours.

This, I know, my lords, may be deemed chimerical at first view; but will not appear quite so chimerical, if we consider that the first body of Saxons called over to this island, did not amount to above 2 or 3,000 men, and yet in less than 150 years that nation, though not near so well united among themselves as the Jews are, made themselves masters of the greatest and most fertile part of this island; nor let it be objected, that the Jews are not a warlike people as the Saxons were, for a change of circumstances, with a few proper regulations, may produce an intire change of manners; and though nothing of this kind should happen, if they have the sole or the greatest command of money, they may prevail with one half of the natives to assist them in subduing the other, for we know the power of money in politics as well as in war. Thus it must appear not to be altogether impossible to imagine, that the Jews may by this scheme of naturalization, which we now seem to be so fond of, make themselves at last the chief masters of this island, and if they should, no one can suppose they would submit to be governed by the royal family now upon our throne.

My lords, I shall readily grant, that a people may be in such circumstances as to render a naturalization of some sort of foreigners not only proper but necessary. After a general devastation by war, famine, or pestilence, a naturalization of foreigners may be necessary, or in the infancy of trade in any country a naturalization of foreign merchants, manufacturers and artificers may be necessary; but in all cases of naturalization these two rules ought in prudence to be observed: first, not to naturalize at once, or in a short time, such a number of foreigners as may, by uniting together, become any thing near to an equal match for the natives: and secondly, never to naturalize such foreigners whose latest progeny must always continue a people separate and distinct from the people that naturalized them. As to the first of these two rules, I am sure, it stands in need of no illustration; but as to the second, I shall suppose, that for strengthening our sugar colonies, and for peopling them with subjects instead of slaves, a scheme were proposed for naturalizing all the blacks born in any of them without any other condition whatsoever: I will say, that our adopting such a scheme would be ridiculous, because their progeny would always continue to be a distinct people; but if the conditions were added that no such blacks should be naturalized unless they declared themselves Christians, and that no such black man should be naturalized unless he married a white woman, nor any black woman unless she married a white man, the ridicule of the scheme would be very much softened, because their progeny would in time unite and coalesce with the rest of the people: it might a little alter the complexion of the people of these islands; but they would all become the same people, and would look upon themselves in no other light than as subjects of Great Britain. This must shew the imprudence, and even the ridiculousness, of our adopting the doctrine, that all Jews born here are to be deemed natural-born subjects; for their latest posterity, whilst they continue Jews, will continue to be, and will consider themselves as a people quite distinct and separate from the ancient people of this island; and an increase of their number will not, I am sure, be an inducement for any of them to embrace the Christian re-

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ligion: on the contrary, it will have an opposite effect; the fashion in this country at present seems to be, to profess our being free-thinkers; and I do not know but that in the next age the fashion may be, to profess our being Jews; for nothing is more liable to change, nothing can be less governed by reason, than what we call fashion, and it generally starts from one extreme to the other; consequently, might start from Libertinism to Judaism, which I look upon as the two opposite extremes, because of all enthusiasts the Jews have shewn themselves the most obstinate.

I hope, my lords, I have now given a good reason for my being against inserting any clause, or any words in an act of parliament, that may seem to countenance the modern opinion of a Jew's becoming a natural born subject, to all intents and purposes, by being born in this kingdom, and even though he should obstinately persist in the profession of the Jewish religion. I am so far from thinking, that this opinion ought to be established, that I think the American act, so far as relates to the naturalization of Jews, ought to be repealed. We know how artfully that part of the act was introduced: we know that it was passed by surprise, or rather, I may say, by stealth; for nothing relating to the Jews ever appeared in the votes, nor does now appear in the title of the act. But even that act alone, if it stands, may in time bring upon us an inundation of Jews, all claiming, and declared by act of parliament, to be natural-born subjects of Great Britain, which, in my opinion, might be of the most dangerous consequence. I shall grant, that such Jews as have already gone thither, or have been at some expence in preparing to go thither, in pursuance of that act, have in some measure the public faith engaged for their naturalization; but it is to them only that the public faith can be supposed to be any way engaged; and therefore I think that act may and ought to be restrained to such Jews as are now there, and such as shall go thither in a year or two after the restraining act shall pass. Such a restraint would no way invalidate the late act with regard to foreign Protestants: but on the contrary would strengthen it, and would be a new encouragement for others to go and settle in our plantations; for whatever some of our modern English Protestants may think, I am convinced, that there is not a foreign Protestant in Europe or America who does not take it amiss to find Jews put upon the same footing with them by our legislature. And it cannot be said, that we never repealed or altered any law, under which private men might have acquired a right, or were intended at least to acquire a right; for in the very first year of his late majesty's reign we passed an act for raising 910,000*l.* by the sale of redeemable annuities at 6*l.* per cent. per annum, and yet in the same session we departed from that scheme, and by another act proposed to raise that sum by the sale of redeemable annuities at 5*l.* per cent. per annum, which accordingly was carried into execution, without any regard to the contractors under the first; many of whom, we may suppose, had called in the money they had upon other securities, in order to lend it upon the first act, in which they were certainly disappointed by the passing of this second act. But what I now propose with regard to the Jews does not go so far, because the repeal or restraint I propose, is not to extend to such Jews as have already gone to America, or put themselves to any expence in preparations for going to settle there.

The people will therefore, in my opinion, my lords, be in the right, if they insist likewise upon the repeal of the American act so far as relates to such Jews as have not gone, or are not now preparing to go to America; and we have no occasion to be afraid that this will prevent them from going there for the future; for where there is money to be got by trade, we may assure ourselves there will be some Jews, and where there is the most money to be got there will be the greatest resort of that people, if they can live with any tolerable security. But if our people either at home or in America should once begin to suspect, that the Jews are forming schemes for becoming their masters, their security will then be precarious in America as well as here, let the government take what measures it will for their protection; for I should be sorry to think that none but jacobites and fools had joined in the present clamour against the act which is now to be repealed: I say jacobites and fools; for if there was no real ground for being displeased with the act: if it was made use of only by the jacobites as a hobgoblin for frightening the people, and raising discontents against our present government, then every man that joined in the clamour was either a jacobite or a fool, in which case we must suppose, either that there is a

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much greater number of jacobites in the kingdom than I hope there is, or that the people of this country are more generally fools than I ever took them to be. But the truth is, that people even of the best sense and most undoubted affection to our present happy establishment, were afraid of the inundation of Jews that would be brought upon us by that act, and the doctrine thereby established; and this, joined to their other causes of discontent, made the clamour so violent and so universal; for whatever the noble lord who spoke last may think, I am sorry to say, that this Jews act is not the only weapon the jacobites have against the present government: the present load of debt which the nation labours under, and which every year drains it of such a monstrous sum of money, for paying the interest due to the public creditors who live beyond sea, is a weapon that will, I fear, grow every year more keen: the multitude of taxes which the people groan under, and which so evidently contribute to the decay of our trade and manufactures, is another weapon that will likewise, I fear, grow every day more keen; the terrors of a numerous standing army, and the many oppressions and insults the people are thereby exposed to, is a third: and the incroachments daily made by uncontrolled bribery and corruption, upon the freedom of elections, is a fourth, that receives a new whetting upon the choice of every new parliament. I could mention several others, but shall only add, that if this Bill passes in its present form, it will be a fifth; because it will be a new confirmation of that modern doctrine, that every Jew born in the British dominions is, to all intents and purposes, a natural-born subject, and intitled to all the rights and privileges of an Englishman, which doctrine is, in my opinion, of much more dangerous consequence than the act which is by this Bill to be repealed, and I am fully convinced, that every sensible man in the kingdom will join with me in opinion.

For this reason, I hope your lordships will take time to consider of this Bill, before you pass it into a law. As it is now so early in the session, there is surely no occasion for any hurry. Before it be passed, I think the opinion of the Judges ought to be asked upon the question, Whether a Jew, continuing to profess the Jewish religion, becomes, to all intents and purposes, a natural-born subject of Great Britain by being born in any part of the British dominions? For if this question should be answered in the affirmative, I shall be for leaving out the exception or proviso now contained in the Bill, and adding a clause for disabling any Jew, while he continues to profess the Jewish religion, to purchase or hold any estate in lands, tenements, or hereditaments, above a leasehold for a certain number of years; or to vote at an election of any magistrate, officer, or member of parliament; and I may propose this with the greater confidence, as we have a precedent for the first part of it among our ancient statutes, if there be any truth in what our historians have told us of it; for as to the second part of what I propose, there was not at that time, nor ever, I believe, till very lately, so much as a thought, that a Jew could have a right to vote at any election.

The Earl of *Granville*:

My lords; I shall admit that the clamour raised against the act passed last session in favour of the Jews, has been pretty universal, but as to the cause of that clamour, I happen to be of a different opinion from every noble lord who has yet spoke upon the subject: I am far from thinking that this cause was of such a serious nature as any of their lordships seem to think; on the contrary, I believe the clamour was chiefly if not entirely owing to the act happening unluckily to get a wrong title; for if instead of calling it an act for permitting the Jews to be naturalized, it had been entitled an act to prevent the profanation of the holy sacrament of the Lord's Supper, I believe, no objection would have been made to it, but on the contrary every man would have applauded our zeal for the honour of the religion we profess; and this would, I think, have been as proper a title as the other; for surely it is a profanation of that awful ceremony of our religion to admit a Jew to partake in it, before we are well assured of his having embraced the Christian faith; and that such a thing may happen we are well assured, because it did actually happen in king William's time, when three Jews were naturalized by parliament, who before and after professed themselves openly of the Jewish religion, and yet we must suppose, that they were admitted to partake in that sacrament before any Bill could be offered for their naturalization. I shall not say that they were guilty of any profanation, because they could not think that there

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was any thing holy or religious in the ceremony; but in him who administered the sacrament to them it was a very great profanation, and a crime of such a heinous nature, that the repetition of it ought to be prevented by some means or other.

For this purpose, my lords, the act passed last session would certainly be the most effectual; but since the people do not like it, I am quite easy about its being repealed, and equally indifferent how far that repeal may be extended. You may repeal the whole if you please, or only a part: I shall not give myself the trouble to differ with any of your lordships upon this head, because I do not think religion any way concerned in the question. If religion were really concerned, I am sure, the legislature would not vary, nor ever alter what they have established, for the sake of pleasing a few humoursome people. But the word religion is often applied to things in which religion has not the least concern; and in such things the legislature may and often do vary according to the humour of the times. Of this the Occasional Conformity Bill and the Schism Bill are recent examples. Both the contending parties pretended that religion was intimately concerned, and each insisted that it was upon his side of the question. One side contended, and some of them perhaps really believed, that the Church was in the utmost danger, and that it would be impossible to preserve our established religion, if both these Bills were not agreed to; and the other contended, in which many of them too, I believe, were serious, that the passing of either of these Bills would introduce Popery and put an end to the Protestant religion. Yet both these Bills were passed without any bad consequence to the Protestant religion; and both have been long since repealed without any danger, but with, I believe, a very great advantage to our established Church.

Upon all such occasions, my lords, both sides are apt to grow too warm, but when they have time to consider seriously and deliberately the nature and consequences of the dispute, both sides generally, upon cool reflection, become ashamed of the part they have acted in it; and the very same thing I am confident would happen, even though the act passed last session should stand unrepealed. The Christian religion can never be brought into any danger by a naturalization of Jews: I should not think myself a true Christian, if I but supposed that my religion stood upon such a precarious foundation. Nor do I think that Christianity can suffer, or that our Church can be brought into any danger, by a total repeal of that act; for suppose that Jews born here should be capable of purchasing advowsons, which is a question I shall not take upon me to decide, and should be thereby entitled to present to a benefice, the Church could not thereby be brought into any danger; for the Jew patron must present a clerk properly qualified, not only as to his religion and learning, but as to his life, morals, and character, because the bishop has a power to examine him as to his religion and learning, and to require sufficient testimonials as to his life, morals, and character; and if he is not fully satisfied upon every one of these heads, he may reject the clerk so presented; and would be more apt to reject him if presented by a Jew, than if presented by a Christian; from whence we may suppose, that no clergyman would be ever presented by a Jew, but such as could stand the most strict scrutiny, and that therefore such cures as were in the gift of Jews would be at least as well supplied as any other in the kingdom.

That the care of having proper and well qualified clergymen presented to, and established in every church benefice, is by our ecclesiastical constitution chiefly intrusted to the bishop of each respective diocese, is evident from this, my lords, that a minor, an infant, is by our law allowed to present without the consent of his guardian. Surely, it cannot be supposed, that a boy of 8 or 10, or even of 15 or 16, can judge whether a clerk be properly qualified, either as to his morals, learning or religion; but of all this the judgment is left to the bishop, and since the minor or infant cannot injure himself, because no advantage can be made of a presentation to a benefice already become void, therefore the law allows him to present without the consent of his guardian. It is therefore evident, that the interest of religion can no way suffer by a Jew's having a right to present to a church benefice; and, that the Christian religion allows of presentations made by those that are not Christians is plain from what is now practised within the dominions of the grand seignior; for in that empire, especially in the European part of it, there are many Christian bishops, and a great many more Christian churches than Mahometan mosques: the bishops indeed are

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allowed, I believe, to present to most of the churches within their respective dioceses; but the sultan himself, or his ministers, appoints all the bishops, and the Christians seldom complain of unfit or unqualified persons being appointed. On the contrary, they are generally better qualified than the bishops appointed by the Roman pontiff.

Thus your lordships may see, that I must be very indifferent whether you repeal the late act in whole, or in part only, or whether you repeal it at all or no. But as to the act for the naturalizing of such Jews as shall go and settle in our plantations or colonies in America, the question is of quite another nature. I really doubt whether you can repeal it; for it is of a stronger nature than any common act of parliament: it is a sort of *pactum conventum* between the public and the Jews that are or may be entitled to the benefit of it. When the public offer terms to private men by act of parliament, and the latter accept of those terms, and perform their part of the conditions required, such an act becomes a *pactum conventum* between the public and those private men, and to them the public faith is engaged, that such an act shall never be repealed or altered without their consent. We must therefore be extremely cautious in what we do with respect to that act, because the security of all our public funds, and consequently the public credit, stands upon the very same foundation, and the great regard the legislature has always shewn to the public faith in this respect, has enabled us to make so great a reduction of the interest payable to the creditors of the public, and may enable us to make a yet farther reduction, if we continue to shew the same regard to the public faith; but nothing can be more ticklish than credit either public or private, and that may without doors be thought a breach of public faith, which may within be thought a very innocent, perhaps a very just regulation: for which reason, I am convinced, that no money was advanced, or contracted to be advanced, upon the first of the two acts mentioned by the noble duke, or that those who advanced it, or contracted to advance it, agreed to accept of 5*l.* per cent. for their money, before the second act was thought of; therefore what was then done can be no precedent for our repealing or restraining the American act without the consent of those who have become contracting parties under it.

And, my lords, as to the inundation of Jews, which the noble duke seems to think we are threatened with from that act, experience may convince us, that there is not the least ground for any such apprehension; for though it be 14 years since that act was passed, it will be found upon enquiry that very few Jews have as yet come home to claim the benefit of it. As little do I fear the terrible consequences that seem to be apprehended from the Jews that have been, or may hereafter be born here, should it even be determined, that they become thereby natural born subjects of this kingdom to all intents and purposes; because we can put a stop to the increase of their number whenever we please, and therefore I do not think we have at present any occasion for putting such a question to the Judges as his grace was pleased to propose.

The Bishop of *Oxford**:

My lords; as there is no precept of Christianity that forbids us to allow the Jews to live amongst us, I thought religion very little concerned in the question, whether they should be permitted to be naturalized, without being under any necessity to do what even they cannot think right for them to do; for though they may not think it a profanation of any religious institution to partake of the holy Sacrament of the Lord's Supper, yet they

* "In the beginning of the year 1753, a Bill for the naturalization of the Jews, commonly called the Jew Bill, had passed both Houses of Parliament with little or no opposition. But a great clamour being raised against it without doors, it was thought advisable that the duke of Newcastle should move for the repeal of it, on the first day of the session in the next winter. And he desiring to be seconded by a bishop, Dr. Secker was fixed on for that purpose. He accordingly rose up and made a speech, which had the good fortune to be remarkably well received; though lord Westmoreland said, that for some time he thought the bishop had been speaking against the repeal, having advanced more in favour of the Bill than he had ever heard before. He spoke afterwards for a clause to disable Jews from being patrons of livings, which some thought they might; but the desire of the House for the simple repeal prevailed, and he was advised not to divide it on the clause. On this occasion it was that he vindicated his friend Dr. Sherlock, with great spirit, against some severe attacks made upon him by a noble lord in relation to this Bill; for which generous proceeding he had the bishop's thanks." Porteous' Life of Archbishop Secker.

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must think it immoral to dissemble so far as to pretend to be Christians, which they must do before the most profligate clergyman will administer it to them. Therefore if religion was any way concerned, it was in favour of the Bill brought in last session, and from daily experience I was convinced, that the most successful, and I am sure, the best way of making converts, is to treat those who differ from us with that mildness and universal benevolence which our holy religion so strongly recommends. This induced me to give my consent to the passing of that Bill into a law, especially as care had been taken to prevent any Jew naturalized by that act, or by any other method, from intermedling in any affairs relating to the Church, which I looked upon as a considerable point gained in favour of our religion, as many Jews may become naturalized by means of the American act, and as several considerable lawyers have given it as their opinion, that a Jew born here is to all intents and purposes a natural born subject, and entitled to all those rights and privileges which any other subject, who is not of the established church, is by his birth entitled to.

This, my lords, was then my opinion, and I have not yet met with any good reason for altering it; but as the act has given offence to so many of our Christian brethren, and as I do not think it a matter of very great importance either to religion or the state, I shall in this case be ready, as I shall always be in cases which I do not think of the utmost importance, to sacrifice my opinion to the satisfaction of my Christian brethren. For this reason, I shall be ready to consent to the repeal of that part of the late act which permits Jews to be naturalized, but I cannot consent to the repeal of that part of it which disables any Jew to purchase advowsons, or any thing that may give him a right to intermeddle in affairs relating to the Church; and therefore I cannot agree to the leaving out the exception or proviso contained in the Bill now before us; for though no Jew should ever be naturalized by parliament, yet many of them will certainly be naturalized by means of the American act, and if all Jews born here are to be deemed natural born subjects, we can make no doubt but that many of them will purchase land estates with advowsons annexed, and they may purchase presentations, with a view to present such clerks as will underhand favour their religion, or such as they think will by their conduct bring a scandal upon Christianity.

The noble lord who spoke last was pleased to say, that this may be prevented by the bishop, who has power to enquire into the character and qualifications of every clerk presented to him, and to reject such as are deficient either in character or learning. It is true, my lords, the bishop has such a power; but as to character we are often imposed on by false testimonials which are generally too easily obtained; and a bad character in general will not be a good plea upon a *quare impedit*. Some particular vice or crime must not only be set forth but proved, otherwise the bishop will be cast in the suit, and obliged not only to pay costs but to accept of the clerk to be presented. Now a clergyman may be a very vicious man, and even a man of bad character, though it be not possible to prove any particular crime, or any immoral behaviour against him, as all men, especially gentlemen, are unwilling to become informers; therefore the bishop may be forced to accept of the clerk presented, though he knows him to be a man of a bad character; and such clergymen the Jews will probably chuse to present, in order to bring the more scandal upon Christianity.

Then, my lords, as to the qualifications of the clerk presented, the bishop may, and indeed ought to examine him, and if he finds him very ignorant he may and ought to reject him; but in this case likewise a *quare impedit* may be brought against the bishop, and though it has been decided, that illiterature is a good plea to such an action, yet whether it is so or not is a question in law that is not yet absolutely settled, and may perhaps be determined against the bishop. Thus your lordships must see, that bishops are now liable to great vexation upon their refusing such clerks as are presented to them, and they would become liable to a great deal more, should Jews get themselves possessed of many advowsons. The bishop, for the sake of his character, would be obliged to refuse every clerk presented by a Jew, if there were the least appearance of an objection to his character or qualification, otherwise the people would accuse him of combining with Jews to bring a reproach upon Christianity; and in every case the Jew would certainly bring his action of *quare impedit*.

But now, my lords, suppose that every

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Jew patron should take care to present a clergyman of the most undoubted qualification and unblemished character; yet his being presented to the living by a Jew would be a derogation to his character among the people, as we may certainly suppose from the popular clamour raised against the act now proposed to be repealed: and this would prevent his having that weight and authority among the people of his parish, which every clergyman ought to have. Then, my lords, let us consider, that in this kingdom there are many donatives over which, if they have not been augmented, the bishop has no power either as to the presentation or as to visitation: nay, he cannot so much as compel the patron to present or fill up the vacancy, any other way than by ecclesiastical censures which are now but too little regarded by Christians, and would certainly be held in contempt by Jews; therefore we may suppose, that if they should acquire a right to such donatives, they would never fill up the vacancies, but apply the income to the support of their own rabbis.

I shall admit, my lords, that in Turkey all the dignitaries of the Christian Church are appointed by the grand seignior or his bashaws. This all Christians, I hope, lament, though those under the Ottoman power are forced to submit to it; but none of the Turkish bashaws ever trouble their heads with the nomination or appointment of parish priests; and if the Christians in Turkey were forced to submit to this likewise, I hope, it would be no argument for our willingly submitting, or rather chusing to have our parish priests appointed by Jews. I am sure the Turks would be far from looking upon any man as a true mussulman, if he proposed that the Imaum or Sheik of any of their mosques should be chosen or named by the Christians. As little should we allow our parish priests to be named either by Turks or Jews; and therefore, I hope, your lordships will not leave out the exception or proviso contained in the Bill now under your consideration.

The Bill was then read a first time.

November 20. The Bill was read a second time and committed for the next day, when an Amendment was made, for explaining of which we must observe, that in the Bill as first presented, there was a clause for saving from the intended repeal, and for establishing the clause in the act of the former session, which disabled all persons professing the Jewish religion to purchase, inherit, or take any advowson or presentation, or other right or interest in or to any benefice, prebend, or other ecclesiastical living or promotion, school, hospital or donative, or any grant of an avoidance thereof, &c. But this clause was objected to both upon the first and second reading, because it imported a sort of acknowledgment, that persons professing the Jewish religion, if born here or naturalized, might purchase any other sort of estate; and as the same objection was again made in the committee, this saving clause was agreed to be left out of the Bill, by which it was made a total repeal of the former act; and in that shape the Bill passed the Lords and was sent down to the Commons on the 23rd.

*Debate in the Commons on the Repeal of the Jews Naturalization Bill.**] The Bill passed last session had given so much disgust to the people of this kingdom, that at the beginning of this session, there seemed to be a sort of contention between some of those who in the preceding session had been for it, and those who had been against it, which of them should be first to move for its being repealed. In consequence of this contention, as soon as the motion for an Address to his majesty was made, sir James Dashwood stood up, and said, he did not rise to oppose the motion, but to desire that gentlemen would not leave the House as soon as that motion was agreed to, because he had one of great importance to make, which would require the attendance of every member, and which he was resolved to make as soon as the motion then made for an Address was disposed of. Accordingly as soon as the Address was agreed to, he rose up again, and after taking notice of the just indignation which the act of the preceding session in favour of the Jews, had raised among the people, he concluded with moving, that the House be called over on the 4th of December, in order to take that act into consideration. But upon being told that it was not usual to appoint a call of the House for any particular purpose, he agreed that his motion should be general for a call of the House upon that day, and the motion thus amended being seconded by lord Parker, it was agreed to without opposition. But the Bill coming from the Lords rendered the Call unnecessary.

* From the London Magazine.

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November 26. The Bill was read a second time.

Mr. *Pelham* was among the foremost who spoke in favour of the repeal.

Mr. *Potter* said:*

Sir; after what has already passed upon the subject of this Bill, in this House, as well as the other; after that race for popularity which we have seen attempted to be run by persons who usually differ in their ways of thinking; and after that dexterous management, or, to carry on the metaphor, that jockeyship, by which this Bill is triumphantly brought down, by one side, before the day is arrived which was desired by the other side for the consideration of it; it is natural to conclude that it will pass through the House without much opposition. I hope, however, that unconnected as I am with either party, and being used to think a little for myself, I shall be forgiven if I delay for a few minutes the course of this popular proceeding, and if I interrupt the unanimity of the House with my negative, even though I should be single. And yet, Sir, I should be heartily sorry if I should stand single. I am content to be the first in setting my face against this popular clamour; I am content to lead the way against that odium which, to many, seems so terrible; but I cannot but hope, that some person of weight and dignity will rise up to justify the proceedings of parliament, to defend the honour of the legislature. Sir, they want an advocate. Not only the wisdom, but the integrity of the legislature has been arraigned, openly and impudently arraigned in pamphlets, in news-papers that have circulated through every country in Europe. They have been accused, Sir, in express terms, of having sold the birthright of Englishmen, and betrayed the Christian religion. King, bishops, lay-lords, and Commons, have combined to make this infamous bargain, and the rabble of the kingdom have been called up to the rescue of them. Pardon me, Sir, if I speak with warmth, I own I feel indignation, but I am too well justified in what I have said; I have not overstrained the point.

Thus arraigned, thus accused, Sir, it is proposed, in order to justify our proceedings, and to vindicate our integrity to the world, that without venturing to question, or call to an account, the authors of these impudent calumnies, we should at once yield to the demands of the multitude, and that we should, in effect, more than tacitly confess our guilt, and acknowledge the justice of these accusations, by hastening to rescind, with most unprecedented precipitation, what was done with great consideration, and great deliberation: pardon me, Sir, if I do not think that such a measure is founded upon sound policy, or very consistent with the dignity of parliament. I was one of those, Sir, who voted for the Bill when it passed: I avow it, Sir, thus publicly, and let those, who are disposed, (if there are any so disposed) make the most of that declaration. I am ready to abide the consequences. I voted for it, because I thought it a right and a wise measure, and from what has passed since, I am more strongly convinced that it is so; and when I am once satisfied, Sir, that what I have done is right, I will never be brought, for any consideration, to set my hand to an ignominious recantation. And yet, this is the light in which, I am afraid, this proceeding will appear to mankind, and considering the spirit of insolence which prevails, I should not be surprised, if we should see this Bill, as soon as it is passed, hawked about the streets of London and Westminster, under the title of the Parliament's Recantation.

That those, Sir, who think, that permitting the Jews to be naturalized, was a wrong measure, should be desirous to see this law repealed, is natural. Of these, perhaps, there are some in the House; a few who expressed their dislike to it at the time when it passed, and others, who being absent at that time, have had an opportunity to form their judgments since. That there may be others, who, indifferent as to the Bill itself, yet taking advantage at this dislike, have, through discontent, disaffection, or any other unjustifiable motive, endeavoured to raise a clamour, and to blow up the coals of dissention, and that these should seriously wish the repeal of the Bill, is likewise natural, because, undoubtedly, nothing can justify them so much as this proceeding. If you repeal the Bill, the people can never be convinced, by experience, how shamefully they have been misled. That would be one motive, though a distant one; but there is another, which will operate more immediately. The repeal of this Bill, Sir, will never be looked upon as the free and vo-

* From the original Manuscript in the hand writing of Mr. Potter.

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luntary act of the legislature; and the very precipitation, which is used in passing it, will be the strongest proof that it is not. We were forced to it; we did not dare to delay it for an hour; the champions of religion were so formidable, the consciousness of our own guilt was so great, that we huddled the repeal through, before the arrival of that great and dreadful day, which was solemnly appointed to deliberate upon it. These, Sir, are the lights in which this proceeding will be trumpeted forth to the world, and I should not be surprised, if, upon the day, when this Bill shall pass through its last stage, we should see bonfires and illuminations in every disaffected town in England, to celebrate the triumphs obtained by the patrons and protectors of Christianity over the Jewish parliament.

That this must be the natural consequence of such a measure, so precipitated, appears to me so obvious, that when I heard the proposition of repeal made from the quarter from which it came, I own I was astonished: nay, Sir, I was grieved at it. I was grieved, not only as a friend to the Bill which was to be repealed, but as a member of parliament, as a friend to the government, as one who sincerely, and from the bottom of his heart, wishes to see the king supported, and his government carried on by wise and steady councils.

But, Sir, besides the light in which the people of this country will consider this repeal, we ought to look a little further. Trifling, as some gentlemen may now affect to represent the object of the Jew Bill; yet the opening the way, and throwing out the temptation to rich Jews to come and settle in your country, is a measure that has drawn upon you the attention of every politician in Europe. I speak this, Sir, in some degree, from my own knowledge. The bad state of my health has obliged me to pass several months of this last summer in foreign countries; and I can assure those gentlemen, that the Jew Bill has not been more the subject of conversation in England, than it has been in those countries among foreigners, whenever an Englishman happened to be introduced. Countries, Sir, hitherto, of prejudice, of ignorance, of bigotry and superstition; but yet, where the light begins to dawn, and where principles of commerce begin to be understood: I declare, Sir, that in those countries I did not meet a single man, (of those, I mean, who were conversant in principles of government or commerce) who upon hearing the Bill stated, and explained upon its true principles, did not feel and confess that it was a great object, and envy the happiness of those countries where such principles were allowed to prevail.

Having thus brought upon yourselves, Sir, all this attention; having propagated, throughout the commercial world, an opinion of your wisdom, and of the encouragement you were ready to give to commercial people; will you, Sir, give this sudden turn to their opinions? Will you declare, that the legislature is so weak, that government is so weak, nay, to descend still lower, that administration is so weak, that they must recede precipitately from their most solemn and deliberate resolutions, and cannot stand the least popular clamour? If you do, Sir, may not this weakness be remembered on some future occasion? And, may not that confidence, which they ought, and which they are, at present, disposed to place in your resolutions, be diminished?

But, Sir, if I do not tire the patience of the House, I would beg leave to consider some of the principal reasons, upon which those, who were promoters of the Jew Bill last session, are now become promoters of the repeal of it. I have heard it said, Sir, by some of these, that the object of the Jew Bill is in itself trifling; rightly founded indeed in principle, but yet of little consequence; and it is not worth while to make people uneasy for trifles. If this be true, Sir, why was the Bill passed? Was there no opposition made to it at that time? Were there no Petitions against it? On the contrary, were not all the arguments, even those about religion, then urged, which have been urged since? Not so frequently, indeed, because there was not opportunity; but has any thing new been said which was not said then? And were there not serious and grave people, who declared publicly their dislike to it upon a religious account? What was the language then used, Sir, in answer to this? Very different, surely, from that which is now urged. I could name names, Sir, and my memory would serve me to repeat expressions, but that would be unparliamentary. But I may say, in general, that the language then held, was such as, in my poor opinion, did honour to him that used it, and to the House that adopted it: the object was not then counted as trifling, and of no conse-

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quence; that would have been inconsistent with the business of that day.

But, then, Sir, it is said, that the clamours which have been raised since, are so great, that the act is rendered useless, because no Jew will ever think of coming here to apply for naturalization; and however good the institution was, since it is become useless, we may as well quiet the ferment, by repealing it. This, Sir, is an argument which, in my opinion, does no honour to government. If the legislature thinks it right to invite rich Jews to settle here, I hope government has power to protect them as well as the rest of the subjects of this realm; at least, I do not think it very politic to declare, that government is unable to do it. But, Sir, I do very readily agree, that if the same clamour against Jews was to prevail for the future, which has prevailed for five months past, not only no foreign Jews would think of coming over, but I am sincerely persuaded, that many of those rich Jews, who are now established here, would retire with all their effects from this state of persecution, into some more reasonable, more civilized country, where they would only have the inquisition to fear. But, Sir, is yielding, is giving way to clamour, the way to conquer it? Are we so new to popular or election-clamours, as to have lost our idea of the very nature of them? Are they likely to continue for ages, or even for years? And is it not notorious, that we sooner receive, and sooner get rid of prejudices than any people under the sun? I have heard, Sir, some of those who are frightened at the clamour, compare it to that which was raised formerly about the danger of the Church. In one respect, Sir, I think it to be very like, in the nonsense and absurdity of it, but it is by no means like it in its extent, nor would it resemble it in its continuance. How came that clamour, Sir, to be continued so long? Because the whole kingdom was then divided into two powerful factions; and because the leaders of each side found a private as well as a party account in the continuance of clamour. They were kept up by art, Sir, not only by the side clamouring, but by the side clamoured against. Little insults, wanton persecutions, measures of violence on one side and the other, were suggested by cool and designing men, and heated imaginations easily pursued them. The present situation of this country, I thank God, Sir, affords no parallel conjuncture. Had this Bill of repeal been proposed only by the feeble party which has promoted the clamour, had the measures of the legislature been supported, not with violence and arrogance, but with calmness and dignity, and with that spirit which is inseparable from dignity; had government, I mean the executive power, thrown in its weight as it ought ever to do in support of the legislature, I will venture to foretell, without claiming any supernatural power, that before the end of the first session of the new parliament, the name of Jew would have been as much forgot in this country, as that other famous distinction which, upon a former parallel occasion, branded the name of many an honest Englishman with yellow letters. That clamour like this, Sir, had its reign; it was raised to serve a purpose; it did the business of its day, and it is forgotten.

But it is said, Sir, this repeal is not meant as given to the clamours of the multitude, it is given out of regard to those serious, well-meaning persons who really think this indulgence to the Jews prejudicial to religion, who are alarmed at it, and who, though mistaken, deserve to have relief given to the tenderness of their consciences. Relief to tender consciences! Alas, alas! Sir, surely this is too stale a pretext. It is a cloak so thread-bare, it has been so hackneyed, so worn formerly, by leaders of every party, to cover their own ambition, their own daringness, that there is not now a single tatter left to cover our terrors and timidity. But, Sir, to answer this argument with more seriousness than I believe it has ever been urged, if these tender-consciened persons are men who have seriousness and real doubts, if they are, as they pretend to be, true and zealous sons of the church, would it not have been sufficient to have quieted such doubts, that the measure had undergone a reconsideration in both Houses of Parliament; that the heads of the church, 26 archbishops and bishops, had upon the most serious deliberation, pronounced it as their unanimous opinion, that there was nothing in this law which was repugnant to the law of God, nothing which was inconsistent with, nothing which was inconvenient to the principles, the doctrines, or the practices of Christianity? Surely, Sir, such an opinion, pronounced by such men, might have calmed the doubts of any private man, who does not conceive that the rock of infallibility is placed within his own

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bosom. I say, pronounced by such men. There was a time indeed, Sir, when I perhaps might have been prejudiced in favour of those who were at the head of the church. Unhappily for me that time is long since past, and I can now say, with as much impartiality as any one here, (because no one has less private connection with them) that a set of men of more exemplary lives and characters, never adorned the stations they are in. Look upon the bench, Sir, let us ask our own hearts, whether there is one single man who, to judge from the course of life he has led, can be supposed capable of prostituting his function, and of selling that religion which he is bound in so peculiar a manner to defend, for the sake of obtaining a ministerial smile, or an easier and quicker promotion? I will answer the question, Sir, I am sure there is not one. I do not argue from hence, Sir, that therefore every one is upon every occasion to be bound by their opinions. No, Sir, son of a churchman, as I am, I was never educated in such principles: I was never taught to pin my faith, in matters of faith, on any man's sleeve, but in matters which are not of faith, which are mere matters of convenience, of utility, of good policy; surely, Sir, a good son of the church might acquiesce under such opinions as these, even though he did not concur in them. But, Sir, if he cannot acquiesce, if his scruples are of such a nature that they cannot be so satisfied, it is absolutely impossible the repeal of this Bill should satisfy him. If, instead of considering this as a mere matter of policy, he thinks that God Almighty has expressly commanded, that no Jew shall have a legal settlement in any country whatsoever, and this is what the scrupulous, upon this occasion, think, or pretend to think, the repealing this Bill is nothing. You must go infinitely further: you must repeal that law passed so many years since, and by which your plantations have received such advantages, which enables Jews to settle in America: you must go still further, you must bring in a Bill to declare, that no Jew born in England may purchase lands, as undoubtedly he can at present: nay, you must go further still, and must declare all purchases already made by Jews to be void, and of no effect. I say, Sir, all this must be done, if there is any consistency in these scrupulous persons.

The scrupulous man makes no difference between an English born Jew, and a German Jew; between a Jew going to America first, and then to England to be naturalized, or coming immediately to England; between a purchase already made by a Jew, or to be made by one. It is the Jew he objects to, and his principle is this: they are a people cursed by God; they are to have no establishment in any country; and the suffering them to establish themselves here or in America, or to remain established here or there till they have renounced Judaism and confessed Christ, is equally contrary to the dictates of Christianity. Sir, I do not speak this from my own imagination, or from my own ideas of their scruples; I speak what I have seen in print, and printed by an authority, which the clamourers on this occasion cannot call in question, I mean, the London Evening-Post. The paper I mean, Sir, is that of November 20, where, in a Letter to the author, you will find these Extracts, which I now beg leave to read to you:

"I believe I was the first who writ to you on the subject of the Jew Bill. I did it on a principle of conscience, because I thought it directly contrary to the decrees of God recorded both in the Old and New Testament, and the interest of the Christian religion, that the Jews should have a legal settlement in any country whatsoever, and wished it might not be attempted in this. I am a clergyman of the Church of England, and am persuaded, in my conscience, that it is not consistent with its principles to grant them a settlement by law. The question was scarce started before it was turned to serve the purposes of a general election, and thereby made purely political. It is possible it may be considered in both Houses in a political light, and those who are in their consciences persuaded there was no harm in the former Bill, may strive who shall be the first to move, second, or third the motion for a repeal of the former act, that is, to please the populace. It is possible they may retain the clause to disqualify the Jews from purchasing advowsons to livings, with a view to please the clergy, and to obviate one objection to the Bill. If no more should be done, the main objection to the Bill will still subsist, which is, that it gives the Jews a power to purchase lands, &c.—If nothing more than this is done, the question whether they had, before the late act, a right to purchase, stands as it did before: since, therefore, it is well known the gentlemen of the law,

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who are to decide the question if brought before them, are of opinion they had such a right; to repeal the late Bill, without making an express law against their pretended right to make purchases, will be deluding the people. The opinion of lawyers is of no weight in the present case. What right they had before, is nothing to the purpose. The question now is, not whether they had a right, but whether, if they had this right, they ought not to be deprived of it, because they are disposed to make use of it."

These few extracts, Sir, are what I shall observe upon. They manifestly contain the opinion of a scrupulous and conscientious man; and the whole letter is wrote with less passion than any thing I have seen on that side of the question. The writer tells you that he is a clergyman, that he writes for conscience sake, and laments the political turn which party purposes have given to the question. This, therefore, is plainly one of those serious and scrupulous men whom the repeal of this Bill is designed to satisfy; one of those who are convinced in their consciences that they are bound, by our holy religion, to mark out such and such as the enemies of God Almighty; and with great zeal and Christian meekness to call aloud for persecution. But these, Sir, as I said before, will never be satisfied with the repeal of this Bill. The letter-writer tells you they cannot be so satisfied; that repealing the Bill without going farther, is deluding the people, and that without considering what rights the Jews have under our present constitution in the opinions of all the judges (the only lawyers that determine upon rights) the parliament ought to proceed to strip them of their rights, till they shall be reduced to such a condition as the letter-writer, in his great charity, shall think suitable to the enemies of God Almighty. If then, Sir, this is the least that is expected from us; if the scruples taken up upon this occasion are of such a nature as manifestly cannot be satisfied without going such lengths as are totally inconsistent with the safety, the honour, the justice of government, why do we give way to them in the first instance? Why do we indeed delude the people, and make them suspect that these scruples are well founded, by so extraordinary an attempt to satisfy them? Why do we not make our stand here and declare, with that dignity and authority which becomes a legislative body, that these are not the scruples of true religion, that they are the scruples of weakness, of ignorance, of bigotry, and of superstition; and that they lead the way to doctrines contrary to all Christian charity? This, Sir, would, in my opinion, have been the proper method of treating scruples, which we cannot, nay, which we do not mean to satisfy, but which it is more than possible we may encourage by giving way to: scruples not new, not invented on this occasion, and against Jews only, but the relics of anti-toleration principles, long since worn out and forgotten, and which have lurked in the minds of a few, and, in my conscience, I believe a very few individuals; but, Sir, if designing persons have taken advantage of these miserable dying embers, and have blown them up into a flame: if for private interest, and for bad views, any people have been wicked enough to ingraft clamour upon scruple, do not on the other hand, let it be said, that we have deviated from the rules of sound policy, that we have sacrificed a measure in itself just and well founded, that we have suffered this stroke to be given to the principles of toleration, those great principles upon which the welfare of our country depends, for the sake of allaying a little popular clamour which we had not strength of mind and steadiness enough to face.

Sir *George Lyttelton* * said:

Mr. Speaker; I see no occasion to enter at present into the merits of the Bill we passed the last session for the naturalization of Jews, because I am convinced that, in the present temper of the nation, not a single foreign Jew will think it expedient to take any benefit of that act; and therefore the repealing of it is giving up nothing. I assented to it last year, in hopes it might induce some wealthy Jews to come and settle among us; in that light I saw enough of utility in it to make me incline rather to approve than dislike it; but, that any man alive could be zealous either for or against it, I confess I had no idea. What affects our religion is, indeed, of the highest and most serious importance. God forbid we should ever be indifferent about that! But I thought this had no more to do with religion than any turnpike act we passed in that session;

* Afterwards lord Lyttelton. This Speech is printed from his lordship's last corrected copy.

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and, after all the divinity that has been preached on the subject, I think so still.

Resolution and steadiness are excellent qualities; but it is the application of them upon which their value depends. A wise government, Mr. Speaker, will know where to yield, as well as where to resist: and there is no surer mark of littleness of mind in an administration than obstinacy in trifles. Public wisdom, on some occasions, must condescend to give way to popular folly, especially in a free country, where the humour of the people must be considered as attentively, as the humour of a king in an absolute monarchy. Under both forms of government, a prudent and honest ministry will indulge a small folly, and will resist a great one. Not to vouchsafe now and then a kind indulgence to the former, would discover an ignorance of human nature: not to resist the latter at all times, would be meanness and servility.

Sir, I look on the Bill we are at present debating, not as a sacrifice made to popularity, (for it sacrifices nothing) but as a prudent regard to some consequences arising from the nature of the clamour raised against the late act for naturalizing Jews, which seem to require a particular consideration.

It has been hitherto the rare and envied felicity of his majesty's reign, that his subjects have enjoyed such a settled tranquillity, such a freedom from any angry religious disputes, as is not to be paralleled in any former times. The true Christian spirit of moderation, of charity, of universal benevolence, has prevailed in the people, has prevailed in the clergy of all ranks and degrees, instead of those narrow principles, those bigoted prejudices, that furious, that implacable, that ignorant zeal, which had often done so much hurt both to the church and the state. But, from the ill-understood insignificant act of parliament you are now moved to repeal, occasion has been taken to deprive us of this inestimable advantage. It is a pretence to disturb the peace of the church, to infuse idle fears into the minds of the people, and make religion itself an engine of sedition. It behoves the piety, as well as the wisdom of parliament, to disappoint those endeavours. Sir, the very worst mischief that can be done to religion, is to pervert it to the purposes of faction. Heaven and hell are not more distant than the benevolent spirit of the Gospel and the malignant spirit of party.

The most impious wars ever made were those called Holy Wars. He who hates another man for not being a Christian, is himself not a Christian. Christianity, Sir, breathes love, and peace, and good will to man. A temper conformable to the dictates of that holy religion has lately distinguished this nation; and a glorious distinction it was! But there is latent, at all times, in the minds of the vulgar, a spark of enthusiasm: which, if blown by the breath of a party, may, even when it seems quite extinguished, be suddenly revived and raised to a flame. The act of last session, for naturalizing of Jews, has very unexpectedly administered fuel to feed that flame; to what a height it may rise, if it should continue much longer, one cannot easily tell; but take away the fuel and it will die of itself.

Something that fell from my hon. friend who spoke last, makes it proper for me to add one argument more, in order to shew the expediency of passing this Bill. It is the misfortune of all the Roman Catholic countries, that there the church and the state, the civil power and the hierarchy, have separate interests, and are continually at variance one with the other. It is our happiness, that here they form but one system. While this harmony lasts, whatever hurts the church, hurts the state; whatever weakens the credit of the governors of the church, takes away from the civil power a part of its strength, and shakes the whole constitution.

Sir, I trust and believe, that, by speedily passing this Bill, we shall silence that obloquy which has so unjustly been cast upon our reverend prelates (some of the most respectable that ever adorned our Church) for the part they took in the act which this repeals; and it greatly imports the whole community, that they should not lose that respect which is so justly due to them, by a popular clamour kept up in opposition to a measure of no importance in itself. But, if the departing from that measure should not remove the prejudice so maliciously raised, I am certain that no farther step you can take will be able to remove it; and therefore, I hope you will stop here. This appears to be a reasonable and safe condescension, by which nobody will be hurt; but all beyond this would be dangerous weakness in government. It might open a door to the widest enthusiasm, and to the most mischievous attacks of political disaffection working upon that enthusiasm. If you encourage

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and authorise it to fall on the synagogue, it will go from thence to the meeting-house, and in the end to the palace. But let us be careful to check its farther progress. The more zealous we are to support Christianity, the more vigilant should we be in maintaining toleration. If we bring back persecution, we bring back the anti-christian spirit of popery; and when the spirit is here, the whole system will soon follow. Toleration is the basis of all public quiet: it is a charter of freedom given to the mind, more valuable, I think, than that which secures our persons and estates; indeed they are inseparably connected together; for, where the mind is not free, where the conscience is enthralled, there is no freedom. Spiritual tyranny puts on the galling chains; but civil tyranny is called in to rivet and fix them; we see it in Spain and many other countries; we have, formerly, both seen and felt it in England. By the blessing of God, we are now delivered from all kinds of oppression: let us take care, that they may never return.

The Bill before us, I am sure, is not persecution; it only puts every body in that situation where every body was easy. It is a gentle, a prudent, and a moderate measure; tending to quiet and settle the minds of men, which have been unhappily disturbed without any necessity; and, therefore, I give it my most hearty concurrence.

Nov. 27. In the committee, the preamble to the Bill met with some opposition. It was as follows: "Whereas an act of parliament was made, and passed in the 25th year of his majesty's reign, entitled, 'An Act to permit,' &c. and whereas occasion has been taken from the said act, to raise discontents and disquiets in the minds of many of his majesty's subjects; be it enacted." Some gentlemen, who had all along opposed the Bill, thought that those words in the preamble contained an indecent reflection upon the almost universal sense of the people of England. Sir Roger Newdigate, therefore, moved to leave out the words, "Occasion has been taken to raise discontents and disquietudes," and to insert in their stead, "Great discontents and disquietudes had, from the said act, arisen in." Which motion occasioned the following debate:

Sir *Roger Newdigate:*

Sir; I was last year against every step of the Bill, which to the dishonour of this nation was afterwards passed into a law, for putting Jews upon an equal footing with the best Christians, and for giving them a preference to those of every other religion. I was then against it, because I thought it a Bill of a most dangerous tendency, not only to the religion, but to the liberties and properties of the people of this kingdom. I am still of the same opinion, and therefore I could not but with pleasure hear that a Bill was brought into the other House, even by our ministers themselves, for the repeal of that dangerous law. But the preamble which has been now read to us, gives me the utmost surprize: I cannot but look upon it as a more extraordinary instance of ministerial haughtiness and obstinacy than is to be met with in the British annals. The gentlemen who were last year the patrons and promoters of the Bill then passed into a law, have, it seems, condescended to sacrifice their favourite scheme to the satisfaction of a deluded people, as they suppose them to be; but rather than acknowledge that they were in the wrong, or under any mistake, they are resolved to give a reason for this their good-natured condescension, which not only is false in fact, but implies a reflection upon the whole people of this kingdom; for this is plainly the meaning and the intention of the preamble now under our consideration.

If we agree to this preamble, Sir, we must agree, and every reader must suppose it to have been the opinion of this House, that the law was in itself an innocent and an useful law, but that occasion had from thence been taken by some wicked people, to raise discontents, and to disquiet the minds of many of his majesty's subjects. Now this I say, Sir, is absolutely false in fact. The occasion for those discontents and disquietudes was not taken, but given: it was the law itself that gave the occasion: the more it was considered, the more its evil and dangerous tendency appeared; so that at last a great majority, I may say almost the whole people of this kingdom, came to look upon it as an affront upon the religion we profess, and a design to introduce amongst us a large body of people, who from interest as well as inclination, nay, who for their own safety, would at all times be ready to support any scheme for the establishment of arbitrary power; and this came at last to be the opinion not only of those of the Established Church, but of almost every man in the kingdom who

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professes himself, or has any sort of pretence, to be a Christian.

In this respect therefore, Sir, the preamble, as it now stands, must be allowed to be false; and to suppose it true, is to throw as great a reflection upon the whole people of this kingdom as can be thrown upon the people of any country; for it is supposing them so ignorant and weak as to be imposed upon by artful men, and made to believe that to be for their dishonour and destruction, which is really in itself quite innocent, or which might tend greatly to their preservation and happiness. I say, Sir, the whole people, for I may with great propriety say so, because, I believe there never was a law made in any country that produced so general a murmur among the people; and how different those of this age who pretend to be Whigs, are from their ancestors, may appear from this preamble. Among their ancestors the established maxim was, 'Vox Populi est vox Dei;' but their posterity of this age have in this preamble told us, that 'Vox Populi est vox Diaboli,' as it must be, if it be directed by artful and wicked men. But whatever the late patrons of this law may now think, I believe the people of this kingdom, to take them in general, are, upon mature consideration, as good judges of their own interest or honour as the majority of either House of Parliament can pretend to be; and if it were otherwise, if they could be so easily imposed on or led, as this preamble insinuates, I would have these patrons consider, that this preamble is a very high reflection upon the wisdom or the vigilance of our ministers; for they certainly have a better opportunity and more power to direct a weak and ignorant people with regard to their opinions, than any set of private men can possibly have; and therefore if they have allowed the people to be imposed on and misled with regard to their opinion of the law now to be repealed, it must proceed from a failure either in their wisdom or their vigilance; for, I hope, it will be allowed to be the duty of every minister, to take care that the people shall not be imposed on, and it is certainly his interest to take all possible care to prevent the people from conceiving a bad opinion of any of his measures; and the more weak and ignorant the people are, the better opportunity he has to do so, because he has the proper means for this purpose more at his command than any set of private men can have.

Thus, Sir, as the preamble now under our consideration contains an assertion which is false in fact, and as it implies a reflection, which must necessarily be an unjust reflection, upon the sense of the people of this kingdom, or a very just and true reflection upon the wisdom or vigilance of our ministers, I think I have good reason to hope, that I shall succeed in the amendment I am to propose, which is, to leave out the words, "occasion has been taken from the said Act to raise discontents, and to disquiet," and to insert in their stead, "great discontents and disquietudes had from the said Act arisen in." This amendment, Sir, will remove the objections I have made; and as it does not contain any express acknowledgment, that those who promoted or agreed to the passing of that Act were under any mistake in their judgment, I hope a majority of them will agree to this amendment; in which, I think my hopes the better founded, as we have a precedent which happened at a time when we had as wise, and, I believe, as haughty an administration, as any we have had since that time, I mean, the act passed in the 7th of the late king, for giving his majesty a power to remove persons supposed to be infected with the plague from their habitations, and to make lines about, and confine the inhabitants within such places as should be infected; for this act having raised great discontents and disquietudes in the minds of his majesty's subjects, it was for that reason repealed by an act of the very next session, without throwing any reflection upon the people, or so much as insinuating that their discontents and disquietudes were without any solid foundation. On the contrary, the preamble contained an express acknowledgment, that the execution of the powers in the act to be repealed, might be grievous to the people, and consequently, that every member of either House who had agreed to it, was in the wrong, or had erred in his judgment; which is much more than I now desire. I have therefore, I say, good reason to hope, that gentlemen will follow that precedent upon the present occasion, at least so far as not to throw any reflection upon the people; and consequently, I shall conclude with moving the Amendment I have mentioned.

Mr. *Robert Nugent*:

Sir; I am not at all ashamed to own that I was last session for the act which is now proposed to be repealed, and

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gave my vote for the Bill in every step it made through this House. I could not then think it a bad Bill, though I thought it of no great importance; and as I have still the same opinion of it, I shall with the same indifference agree to its being repealed; for to both, I think, we may very justly apply what Montagne says of the New Stile when it was first introduced. 'Pope Gregory,' says he, 'has found out 'an evil which hurt nobody, and he has 'applied a remedy which does nobody 'any good.' Having thus declared my opinion of the act itself, every gentleman must suppose, that I cannot think the popular clamour raised against it has any solid foundation. I am convinced, that no such clamour would have arose, if great pains had not been taken, and we may easily guess by whom, to spread fantastical fears among the people; therefore I must think the words of the preamble more proper than any that can be inserted in their room. Can we deny, that occasion has been taken from this act to raise discontents among the people? Can this be denied by any one who has seen the numberless papers and pamphlets that have been dispersed through the kingdom against it? By these papers and pamphlets a spirit has been raised among the lower sort of people for the repeal of this act, and as it is of so little importance, I think they ought to be humoured; for this sort of people in every country, like children, take now and then a fancy to a hobby-horse, without which there is no keeping them quiet.

But I am really surprized, Sir, to hear gentlemen talk seriously of this act, as if it were an affront to our religion, and of the most dangerous consequence to our liberties. With respect to our religion, I think the act is plainly founded upon that unbounded charity and universal benevolence, which is the distinguishing characteristic of Christianity. How, then, can this act be an affront to that religion which we have so great reason to believe to be the purest Christianity now established in any country under the sun? And with respect to our liberties, every one knows, that the liberties we enjoy is what makes the Jews so fond of coming to settle in this country. Can we, then, suppose, that they would ever contribute to the destruction of that which is their chief temptation for coming hither? Surely, Sir, the opinion of some gentlemen with regard to the Jews must be very much changed from what it was some years ago; for I remember when I had the honour to receive the commands of this House to prepare and bring in a Bill for a general naturalization of foreign Protestants (and I shall always look upon it as an honour*) the Jews applied to me for a clause in their favour, and I was inclined to have added some clause for that purpose; but I was afraid lest it might obstruct the Bill, and therefore I refused to comply with their request. Yet I afterwards found that the want of such a clause was made one of the chief arguments against my Bill; for the Jews were then represented as a most innocent, harmless and useful people, and many advantages were talked of, which might accrue to this nation from their naturalization.

Now, Sir, with regard to the reflection said to be cast by this preamble upon the people of this kingdom, I do not think it a false or an unjust reflection to say, that the lower sort of people in any country may be imposed on and misled by artful and designing men. It is so in all countries: it will always be so: any thing will upon some occasions serve for a popular cry: we know what a combustion was once raised in this country by the cry of the Church being in danger; and yet it was never brought into greater danger, than it was by those very men who were the authors of that cry. Even at this present time, there is among the country people a very general clamour against the New-Stile Act; and as I have been, ever since my appearing for a general naturalization of foreign Protestants, represented as the author of every thing they think bad, I was said to be the author of that act, and Am now said to be the author of this Jews act; on the hearing of which an old woman made this judicious remark, 'Ay,' says she, 'it would be no wonder should he be for naturalizing the devil, for he was one of those that banished Old Christmas.'

And next, Sir, as to the supposed reflection upon the wisdom and vigilance of our ministers. I am surprised to hear any such thing supposed by a gentleman who is so well acquainted with the nature of mankind; for it is well known, that the people in all countries are apt to be jealous of, and to envy those that are placed in authority over them, therefore they are always more ready to give ear to, and to place an implicit faith in what is said or

* See Vol. 14, p. 133.

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written against ministers, than in what can be said or written in their favour. For this reason a wise and steady minister will give himself very little trouble about any groundless clamour that may be artfully raised amongst the populace. If it be a matter of importance he will stand steadily to the measure he has resolved on, and leave the people to cool by themselves; for like all whimsical men, the more you oppose their whim, the more stiffly and violently they adhere to it: and if it be a matter of no importance, he will comply with the popular humour, which in the present case was, I believe, long since resolved on by our ministers, and consequently, they had no occasion to give themselves any trouble about setting the people right in their way of judging about the act which is now to be repealed. Therefore, Sir, the preamble, as it now stands, rather shews the good nature and complacency of our ministers, than any want of wisdom or vigilance; and as the word 'groundless,' is not inserted in this preamble, I think it a manifest proof, that those who had the preparing of this Bill, were careful not to throw any reflection upon the people; for if such had been their design, they would certainly have made the preamble run thus: "and whereas occasion has been taken from the said act, to raise groundless discontents, and without any just cause to disquiet," and even if it had run thus, I should have been ready to have agreed to it, because I think it would have contained nothing but what was just and true.

As to the act of the 7th of the late king, which was repealed the next following session, surely, no gentleman can think there is any sort of resemblance between that act and this which is now to be repealed. By that act the liberty of every man in the kingdom was actually given up; for the government were empowered to imprison in a lazaret any man they pleased to say was suspected of being infected with the plague, without either judge or jury to determine, whether or no there was any ground for that suspicion. This, I am sure, no British parliament would ever have agreed to, if they had not been thrown into a panic by the plague, which was then raging at Marseilles in France, and by a well-grounded apprehension, that it would spread over that whole kingdom, and from thence make its way to this. Therefore we cannot wonder, that when the panic was over, the parliament took care to repeal so dangerous a law, or to prefix to the repeal such a preamble as the hon. gentleman was pleased to mention. But as I can see no reason for repealing the law now under our consideration, save only the occasion which has been from thence taken, in my opinion, with great art and industry, to raise discontents among the people, I think the preamble cannot be more properly worded than it is, and therefore I shall be against the amendment proposed.

Mr. *Thomas Prowse:*

Sir; whatever the hon. gentleman may think of the act which is now to be repealed, whatever he might have thought of the Bill last session when it was depending in parliament, I must be of opinion, that those who were last session its chief patrons, thought it a Bill of very great importance, otherwise they would not have treated the city of London as they did, when the lord mayor, aldermen, and common-council of that great, and, I hope I may say, as yet Christian city, petitioned almost unanimously against the Bill being passed into a law; for every gentleman within doors must remember, and it will, I believe, be remembered by many without, with what warmth the petitioners were treated by some gentlemen upon that occasion. And I must also be of opinion, that they now think the repeal of that act of some importance, otherwise they would not have been so extremely vigilant in taking the first opportunity to introduce a Bill for that purpose. What were their reasons last session for thinking the act of so great importance, I shall not pretend to explain; but I can easily guess, what is their reason for being now so careful to be themselves the first authors of its repeal; and therefore I am surprised at their having prefixed to it such a preamble. I believe every gentleman supposes, that their design in this repeal is to pacify, and to regain the favour of the people; but if a gentleman had taken an affront at any thing I had done, I should think it a very bad way to pacify him, or to recover his favour, should I tell him, Sir, to satisfy you I will undo what I have done, but if you had not been such a fool as to allow yourself to be imposed on by my enemies, you could not have taken amiss what I did.

Sir, I appeal to every gentleman who understands the English language, if this is not, with respect to the people of this

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kingdom, the plain and direct sense of this preamble; and therefore, as a friend to those who brought in the Bill, I must be for the alteration proposed. But besides this, I have two other, and with me much stronger reasons for being of this opinion, the first of which is, because I take the preamble, as it now stands, to be absolutely false in fact; and the second, because I think it inconsistent with the dignity of parliament. That the disaffected will take advantage of every wrong or imprudent measure pursued by our present government, I do not in the least question; but of a right and wise measure, I am sure they can take no advantage; for though they may probably endeavour to misrepresent every public measure, yet if the measure be in itself right, we know from experience, that they never could, by any misrepresentation, raise discontents or disquietudes in the minds of those that are well affected to our present happy establishment; and I should be very sorry to think, that no man could be well affected to our present happy establishment, who appeared to be dissatisfied with the act which is now to be repealed. Even the London Evening Post I cannot suppose to be a disaffected paper, merely on account of the many things that were published in it against this act; at least, if it be a disaffected paper, I hope I shall not be supposed to be disaffected, because I advertised in it; for I did so because I saw that an hon. gentleman over against me upon the floor had advertised in it, and no man, surely, will suspect him of being disaffected.

But, Sir, whatever we may think of that paper, it is well known, that many of the best friends to the government expressed their dislike to this act in the most public manner; and I do not wonder at their doing so; for though Christian charity and benevolence obliges us to wish that all Jews, Turks, and Pagans may become Christian, and even to take all proper methods for converting them, yet by the precepts of Christianity we are expressly commanded not to associate with such people; consequently I must still think, that an act for their naturalization is not consistent with our established religion, and I am sure, that every Christian church under the sun would look upon such an act as an affront; for there is a great difference between that of giving the Jews the protection of the laws whilst they live honestly and peaceably amongst us, and that of naturalizing or associating them into our society: the former we are by Christian charity and benevolence obliged to do, but the latter we are expressly commanded not to do; and it is really in my opinion, attempting, as far as we can, to falsify that prophecy which says, that the Jews shall be scattered among all nations, without finding any ease or rest for the sole of the foot. How vain this attempt was may plainly appear from the Bill which we have now before us, and which for this very reason I make no doubt of seeing passed into a law; as that prophecy has already been in many particulars surprisingly fulfilled, consequently I must believe, that it will always hold true, and that the Jews never will obtain a fixed settlement in any country, whilst they continue in their present perverse obstinacy.

I must therefore, Sir, be still of opinion, that our passing of this act was as great an affront as we could well put upon our established Church, or indeed upon any Christian establishment; and I am surprised to hear any gentleman imagine, that our having multitudes of Jews settled amongst us, and possessed of a great part of the landed property of this kingdom, would not be of the most dangerous consequence to our liberties. I shall grant, that one reason for their desiring to settle in this country may be, the knowledge and experience they have of their having a better security for their lives and fortunes here than they can have any where else; but that security must always depend upon the government being able to protect them against the hatred and resentment of the people; for that they will always be hateful to the people, we may both from reason and experience be convinced. Whilst there are but a few of them here, and whilst they possess little or no landed property, that hatred will never rise to any excessive height; but the more they increase in numbers or landed property, the more that popular hatred will increase, and will at last come to such a height, that no sort of government but an absolute and arbitrary one can protect them against it; therefore, however much the Jews may like their present security, in order to preserve it they will join in every measure for the establishment of arbitrary power, because they may then hope by means of an Esther, or some such favourite, to get a principal share of the government into their own hands, and to be thereby en-

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abled to put their foot upon the necks of the people who have always been and always will be their declared enemies.

I should not have troubled you, Sir, with so much against an act which is now to be repealed, but only to shew, that the discontents of the people arose from the nature of the act itself, and consequently that what is asserted in this preamble is absolutely false in fact. And now, Sir, with regard to the dignity of parliament, I hope no man, nor party of men, ever pretended, that our British parliaments were infallible: that we are fallible is almost every session confessed by the amendments, alterations, or repeals of former acts of parliament. It is therefore, no way inconsistent with the dignity of parliament to admit, that we have been mistaken, and have passed a law which, upon more mature consideration, we find may be attended with bad consequences, and therefore ought to be repealed. This was the case with respect to the act, which has been mentioned, for preventing the spreading of the plague. That act in its passage though the two Houses of Parliament was as strenuously supported by the administration as this Jews act was; but when it came to be considered by the people without doors, they presently saw the dangerous consequences it might be attended with; and they began to murmur against it almost as much, though not so generally, as they have done against this Jews act. This opened the eyes of the then administration; so that the very next session they themselves not only brought in a Bill for the repeal of it, but in the preamble to the Bill confessed their mistake, by assigning as the reason for the repeal, because the execution of the powers contained in that act might be grievous to the people.

This, Sir, was wise and right: this was consistent with the dignity of parliament; but surely it is inconsistent with the dignity of parliament to confess or insinuate, that we have been frightened into the repeal of a law which we thought right, because the most senseless and stupid part of the vulgar have been misled by the disaffected, and induced to murmur against it. This would shew a degree of pusillanimity, which must render us contemptible in the eyes of the people; and I am sorry to say, Sir, that parliaments had never more reason to be careful of preserving their character among the people, than we have at present; for from several things that have happened of late years, the people begin to put very little confidence in parliament. Our civil magistrates have long since lost their authority among the people, to such a degree, that they must almost upon every occasion be supported by the military power; but parliaments, I hope, never will lose their authority, for the moment they do, they will become terrible, and consequently hateful to the people; and I may venture to prophesy, that their fate will soon after be the same with that of the assembly of the states in France, or the cortez in Spain: they will never more be allowed to assemble. This, Sir, I may venture to prophesy, because parliaments will always be troublesome to ministers; and therefore no minister will ever advise his sovereign to call a parliament, unless he finds it absolutely necessary to support or enforce his measures by means of their authority among the people.

But, Sir, can we expect to preserve any authority among the people, if we assert what they generally know to be false, or if we tell them that we have been frightened into the repeal of a just and useful law, only because the very scum of the populace have been misled by our enemies, and induced to murmur against it? Yet one or other of these two must be the consequence, if this preamble should be passed as it stands at present; therefore, I hope, the amendment proposed, or some other proper amendment, will be agreed to.

Mr. *Pelham*:

Sir; it is an old observation, and an observation which almost every day's experience confirms, that great events often spring from trivial causes; and from the act which is now to be repealed, we might have seen a new confirmation of this observation; for though the act was of very little importance in itself, yet from the opposition it met with whilst it was passing, and the use that has been made of it since it did pass, it has become an affair of very great importance; because, should it subsist, it might produce some fatal event, as it has artfully and most industriously been cooked up into a religious dispute. It is this, Sir, and this alone that inclines me to be for the repeal of the act; because I have always observed, that when religion is brought into any dispute, reason is from that moment laid aside, and it becomes on both sides a sort of enthusiasm, the effect of which has been fatal to this nation, and but a few years

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ago was fatal to Europe as well as to this nation. Many gentlemen amongst us must remember, and all, I believe, have read of the Trial of that otherwise insignificant parson Dr. Sacheverell;* could any one at the beginning have imagined that the prosecution of such a low, insignificant parson was an affair of any importance? Yet from thence occasion was taken to raise the cry of the Church being in danger, and this soon propagated such a spirit among the people against our then excellent ministers, as gave their enemies the courage to supplant them, which put a stop to the war that had been so gloriously, so successfully, carried on by the great duke of Marlborough, by a most inglorious, I may say, a most infamous peace, when our armies were approaching the very gates of Paris. This has since cost us, as well as our allies, a great deal of blood and treasure: I wish it may not at last cost both of us our independency; but whatever may be the consequence, it is a late proof, that the most signal events may sometimes spring from the most trivial causes.

The case now before us, Sir, is of the very same nature. Who could have imagined, when the Bill for permitting the Jews to be naturalized was first brought into the other House, it was an affair of any importance, or that religion was any way concerned in the question? Could any one imagine this who reflected, that the Bill for naturalizing all such Jews as shall reside seven years in any of our colonies or plantations, had passed through both Houses without the least opposition, and has now subsisted for several years without causing the least murmur among the people? Surely, if any danger could arise either to our religion or liberties, from our having a great number of Jews amongst us, that law would be more dangerous than the law which is now to be repealed could ever be, were it to subsist to the end of the world; because either House of Parliament may, when they please, put a stop to the naturalizing of any more Jews by virtue of the latter, whereas both Houses together cannot put a stop to the naturalizing of any more Jews by virtue of the former, without the consent of the crown, which no prince would grant who had a design against our liberties, and who thought that the Jews might be useful to him in the carrying on of that design.

I do not mention this, Sir, from any opinion I have, that the act for naturalizing all such Jews as shall reside seven years in our plantations, can ever be of dangerous consequence to our religion or liberties: I mention it only to shew, that occasion must have been taken by some persons or other to mislead the people with regard to the law past last session, and to possess them with a conceit of its being inconsistent with their religion, otherwise they would have given themselves as little trouble about it as they did about the former; and consequently I must think the preamble, as it now stands, not only true in fact, but the most proper preamble that can be prefixed to the Bill now before us; for to prevent, if possible, the people from running into any religious dispute, either with or without foundation, is so far from being inconsistent with the dignity, that it is the duty of parliament, because from experience we know, that in such disputes even the parliament itself cannot make either side attend to reason: on the contrary, even the parliament itself is usually hurried away with the stream; and therefore, when any such dispute begins to rise, it ought, if possible, to be crushed in the bud, which, I hope, will be the consequence of the repeal now before us.

Having mentioned the dignity of parliament, Sir, I cannot conceive how any gentleman who has a regard for that dignity, can find fault with the treatment given last session to the Petition from the city of London. Whilst I have the honour of a seat in this assembly, I shall always be ready to hear, and to give due attention to the petitions of any man, or set of men, who think that their private rights may suffer, or that they may be injured in their property or lawful employment, by any Bill depending in this House: in such cases they have a right to petition, and they ought to be heard against it; but in matters of a public concern, no body of men, how respectable soever, have a right to come here and tell us what we ought or ought not to do: to attempt it, is an attack upon the dignity of this House; and when the dignity of the House is attacked, every member of it ought to shew a becoming warmth. The opposition that was made within doors to the Bill then depending, though it was but very inconsiderable, was carried on with great temper, and the Petition presented by the merchants against the Bill was decent: accordingly, they were heard, and allowed

* See Howell's State Trials, vol. 15, p. 1.

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to examine several witnesses: but the petition of the city of London, which was the petition that raised the warmth of the House, was so like the famous Kentish petition, that if they had been treated in the same manner it would have been what they deserved; for I am persuaded, it was that petition which first gave a religious turn to the dispute, and was the foundation of that seditious spirit afterwards propagated with so much industry through the whole kingdom.

Yet, Sir, notwithstanding all the pains that were taken to misrepresent that law, it had very little effect among the better sort of people, so far as I could find or have been informed; for though I had last summer occasion to be present at several very numerous meetings, I never heard any gentleman express a dislike to that law, or signify any apprehension of its bringing upon us an inundation of Jews. Indeed, no man of common sense could have any such fear; for as no Jew was naturalized by that law, as they were only thereby enabled to get themselves afterwards naturalized by particular acts of parliament, and as such acts are so expensive that poor men cannot bear the charge, it was not to be supposed, that any but the rich would or could take the benefit of that law, and, indeed, very few of them but such as have their money in our public funds, or such as were resolved to carry on an extensive trade, and thereby increase both our navigation and manufactures. The clamour was, therefore, chiefly among the vulgar and ignorant, and among them, it is true, it was in some places, and upon some occasions, like to become riotous, which, if it should continue, might be the cause of the death of many of his majesty's subjects, and this the parliament ought surely to prevent, as it may be done without doing any signal mischief to the public; for though these poor people have been misled, yet they deserve at least our compassion; and as I am convinced, that no man would upon this occasion have become an object of our compassion, if he had not been misled, therefore I am for agreeing to this preamble as it now stands.

Mr. *William Northey:*

Sir; I have not for many years found much reason to suppose, that our ministers were men of deep penetration or great foresight: but their introducing last year, and getting passed the act for permitting the Jews to be naturalized, and the reasons they give this year for introducing and getting passed an act for the repeal of that act, gives me less reason for such a supposition than I ever had before. From our whole history, I defy any gentleman to shew me an instance, where religion was by the people brought into any dispute in which religion had no concern: but when ministers, by a side wind, attack the established religion of a country, can they be surprized that the people, who have generally a more sincere regard for the religion they profess than they have, should take the alarm? And if every dispute about religion be an affair of the utmost consequence, as the hon. gentleman who spoke last has confessed it is, I am astonished, that he and his friends did not last year foresee, that this would be the consequence of passing into a law the Bill which they then so strenuously supported, especially as this was so expressly, though decently, suggested to them by the petition from the city of London.

However mean the opinion may be, that our wise ministers entertain of the sense of the people of this kingdom, I can inform them, Sir, that the people are fully apprised of this maxim in politics, that neither the liberties of a free people, nor the religion of a religious people, can ever be directly and at once attacked. Whoever does attempt it, will soon find himself a sacrifice to his own folly. Therefore to attack the liberties of a free people with any success, they must first be disarmed, and a sufficient body of mercenary slavish troops must be provided; and whoever designs to overturn the established religion of a country, must, in order to succeed, first provide for his support a sufficient body of the people who either have no religion at all, or are of a religion different from that which is established. These, Sir, are the previous steps, that must necessarily be taken for overturning the established religion or the liberties of any country; and from many things that have lately happened, the people had reason to suspect, that some persons were forming designs for both these purposes, therefore we cannot be in the least surprised, that they so generally took the alarm from the late act in favour of the Jews; for nothing can be more effectual for the overturning of their religion and liberties, than an army of mercenary troops who have no religion, and a body of rich Jews to raise money for the support of that army; and

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the people were wise enough to foresee, that if the Christian interest in parliament was not strong enough to prevent the passing of that act, it would never be strong enough to prevent the passing of any particular act for naturalizing a Jew, or a number of Jews, many of whom would be included in every future act, and the expence borne by the whole body, as no people are more zealous for the support of their religion than they are.

I could produce many examples for establishing the truth of the political maxim I have mentioned, and I could from our own history shew, that religion was never by the people brought into any dispute in which it had not a very intimate concern; but neither of these I think necessary upon the present occasion, and therefore I shall take notice only of that religious dispute mentioned by the hon. gentleman who spoke last, in order to shew, that our established Church was really concerned in that dispute, and that the nation never suffered by the parliament's pursuing right measures with respect to religion. I believe no man supposes, that the people gave themselves any trouble about the person of Dr. Sacheverell, but what raised the spirit of the people was, because in his person our established Church itself was attacked; for by his prosecution and sentence, one of its most essential doctrines was condemned, and the rebellious doctrines of 1649 revived. If the then administration did not foresee, that this would raise a religious dispute, I must say, they were as short sighted as any of their successors have been since. But I am persuaded they did foresee it: nay more, I am persuaded they designed it, only they did not foresee, that the people would so generally and so warmly declare against the doctrine which they had a mind to revive: and if that religious dispute was the cause of a change in the administration, it produced a good effect; for the then administration had usurped a sort of dominion over our sovereign, so that it was high time to lay them aside. The nation, therefore, no way suffered by that religious dispute, nor did Europe suffer; for the new ministers were as zealous for prosecuting the war as any British minister ever ought to be, nor did they so much as think of peace, until the behaviour of some of our allies made them lend a more favourable ear to the propositions made by France than they would otherwise have done. Even after that, they refused entering into any negociation, until the death of the emperor Joseph, and the election of his brother Charles made it absolutely necessary to put an end to the war; for as no provision had been made by the grand alliance, who should have the dominions of Spain in case of such an event, (which was certainly a most egregious blunder) it became impossible to continue the war, because every one of our allies, except the House of Austria, would have opposed giving those dominions to the emperor of Germany, and the House of Austria would have opposed giving them to any one else.

Thus, Sir, it became necessary for us to conclude a peace, and even to carry on a separate negociation for that purpose; because the blunder I have mentioned made it impossible for us to suppose, that the emperor would join with us, and the famous Barrier treaty, against which the late emperor had protested, made it as impossible for us to suppose that the Dutch would join with us, in any such negociation. The treaty of Utrecht therefore, and the preceding negociation, were both absolutely necessary; and if there was any thing amiss in that treaty, it was occasioned by the obstinacy of our allies abroad, and the perverseness of a party at home. But whatever may be said of that treaty, I am surprized to hear it called either an inglorious or an infamous treaty, by any of those who have been concerned in advising or negociating the treaties we have since made, especially that lately made at Aix-la-Chapelle; for if it were necessary, I could evidently shew, that the present grandeur of France is not owing to any thing that was amiss in the treaty of Utrecht, but to the never ceasing negociations we have since been carrying on; and if Europe, as well as this nation, should become dependent upon France, it will not be owing to the pusillanimity or wrong measures pursued by that administration which concluded the treaty of Utrecht, but to the pusillanimity or wrong measures pursued by some of the ministers we have had since that time.

I beg pardon, Sir, for deviating so far from the question now before us, but if gentlemen will go out of their way to find fault with their predecessors, it becomes necessary to follow them; and for the same reason I must take some notice of a doctrine which seemed to be laid down by the hon. gentleman who spoke last, as if the people of this kingdom had no right to

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petition against what they think may be injurious to their religion or their liberties, which he called attacking the dignity of this House, and telling us what we ought or ought not to do in matters of a public concern. Is not the trade of the nation, Sir, a matter of public concern? May not any set of people petition against a Bill by which the trade of the nation may, they think, be injured? That they may, was last session allowed, when we received the Petition of the merchants against the Jew Bill then depending, and heard them upon their Petition; yet the whole of their Petition was, that, besides other bad effects, our commerce with foreign nations would be injured by the Bill then depending. Perhaps I might be laughed at by some fine young gentlemen, should I say, that the religion of the people ought to be more dear to them than their trade; but surely I may say, that their liberties ought to be more dear to them than their trade. Shall the people, then, have a right to pray that a Bill may not pass because it may, in their opinion, be injurious to the trade of the nation; and yet have no liberty to pray, that a Bill may not pass, which they think will be injurious to their religion and liberties? This is a doctrine which to me appears so inconsistent, that, I hope, it will never be adopted by either House of Parliament. Yet this was all that could be objected against the Petition from the city of London; for it was conceived in terms as submissive and decent as could possibly be made use of; whereas the Kentish Petition was conceived in terms so haughty and indecent, that it looked more like prescribing than petitioning. Therefore it gave me a good deal of pain, even on his own account, to hear the hon. gentleman say, that the lord mayor, aldermen, and common council of the city of London, deserved the same treatment that the Kentish petitioners met with.

Sir, the right of petitioning either the king or the parliament, in a decent and submissive manner, and without any riotous appearance, against any thing they think may affect their religion or liberties, will never, I hope, be taken from the subject. The moment it is, we may bid adieu to liberty, and then we must embrace whatever religion our despotic sovereign pleases to prescribe, which may be the Jewish as likely as any other. If the city Petition, Sir, gave rise to the spirit that has appeared among the people, the effect we now see it has produced, is the strongest argument that can be made use of against inventing any subtil distinctions for abridging the subjects right to petition upon any occasion whatever; for every man, who thinks as I have always done of the act we are now about to repeal, must allow the effect to be extremely good. It is true, the opposition it met with last session in parliament, was not very numerous, no more than any opposition has lately been to any measure proposed or supported by our ministers; yet it ought not to be called an inconsiderable one, if it were only on account of one gentleman who joined strenuously in it, and who ever since he came into parliament, has upon all occasions manifested a true public spirit directed by a sound judgment, which has always appeared to be unbiassed by either party or private interest. And whatever some gentlemen may think of that opposition, the people without doors, of all ranks and degrees, have since most loudly and most generally approved of it, though the contrary be insinuated by this preamble, which, I think, plainly appears to be intended as a reflection upon the opposition within doors, and upon every man without who has since testified any dislike of the act.

I know too much of the nature of mankind, Sir, to think of persuading gentlemen to acknowledge their having been in an error with regard to the act they last session approved of; therefore I shall not trouble you with a repetition of any of the unanswerable arguments then made use of against it; but gentlemen should at least shew so much complaisance to the general voice of their countrymen, as not to condemn it at the same time they are complying with it. This really seems to me to be such an inconsistency of conduct, as no man of common sense, much less a House of Parliament, ought to be guilty of; and as the avoiding of this inconsistency is all that is proposed by the amendment which my hon. friend has been pleased to offer; I hope, it will be unanimously agreed to.

Mr. *Horatio Walpole*, sen.

Sir; when any event happens which is contrary to all human appearance, or inconsistent with the common sense of mankind, a minister's not foreseeing it can be no proof of his want of penetration, or foresight. A man may as well pretend to foretell whether a madman will be pleased

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or displeased with what you are to do or say to him, as to foretell what turn the populace may take when they are seized with any enthusiastical conceit about religion. History, as well as experience, may inform us what ridiculous conceits the people of all countries have been, and daily are led into by enthusiasm. I remember to have heard a story of a gentleman, a high churchman, who was a member of this House, when it was the custom that candles could not be brought in without a motion regularly made and seconded for that purpose, and an order of the House pursuant thereto; so that it often became a question, whether candles should be brought in or no, and this question was sometimes debated until the members could hardly see one another, because those who were against, or for putting off the affair then before the House were always against the question for candles. Now it happened upon one of these occasions, that the high-church party were against the affair then depending, and therefore against the question for candles; but this gentleman by mistake divided for it, and when he was challenged by one of his party for being against them, 'O Lord!' says he, 'I am sorry for it; but I thought that candles were for the Church.' In my opinion, Sir, there is just the very same reason for saying that the act of last session in favour of the Jews is against the Church, as this gentleman had for thinking that candles were for the Church.

Enthusiasm, Sir, can be the only reason in both cases, otherwise it would certainly have been found out last session, when the Bill was maturely and deliberately considered in both Houses, before this argument against the Bill was hit upon by some of the wiseacres in the city; for we must all remember, that the Bill was brought into the other House pretty early in the session, and was so deliberately considered in that House, that it was not sent down to this until the 16th of April. In this House, too, it was so far from being hurried through, that it was not read a second time until the 7th of May, after having been printed by order of the House, and it did not pass through the committee until the 15th; in all which time no objection was made against it without doors, nor was the argument of its being injurious to the Christian religion very strongly insisted on within. If there had been any solid foundation for such an argument, can we imagine, Sir, that in the other House the reverend bench would not have found it out? Would not they have opposed it in the most vigorous manner? Yet we know that it was almost unanimously passed by the other House, and but a very faint opposition made to it in this, before that petition came from the city of London, which was not presented till the very day before the Bill was, by order, to be read a third time. Then, indeed, the enthusiasm began to work, and by the industry of the Jacobites it has been increasing ever since, which renders it in common prudence necessary to repeal an act that in itself is of no great importance to the nation; for it was, not many years since, rightly observed by a very consummate politician, who said to his friends, we shall never get the better of the present government unless we can raise a dispute about religion: therefore whatever gives root to any such dispute will, if possible, be plucked up by every wise government; and if the administration in queen Anne's time, which shewed so much wisdom in every thing else, had foreseen, that this would have been the consequence of their prosecuting that high-church doctor for his ridiculous sermon, they would have left both him and his sermon to the neglect and contempt they deserved, and would otherwise have certainly met with.

I shall not enter into a minute justification of that administration, Sir, whose wise and steady conduct had brought France to the very brink of destruction, nor shall I trouble you with my reasons for condemning the conduct of those who supplanted them; for the former are now universally applauded, and the latter as universally condemned, by the whole nation. But give me leave to observe, that the change in the administration, of itself alone, produced necessarily all the fatal consequences that ensued, as it put an end to that concord and confidence which till then had subsisted amongst the confederates; and of this the court of France knew how to make their advantage. The pernicious treaty of peace concluded at Utrecht was therefore an unavoidable consequence of the change in our administration; and all the negociations and treaties we have been since engaged in, were rendered necessary for correcting the blunders of that treaty, and the circumstances that Europe was thereby thrown into; in all of which we could treat at most but upon an equal footing, and in the last, that is to say, at Aix-la-Chapelle, we were really in some

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measure obliged to treat as the party vanquished; whereas, if the war in queen Anne's time had been carried on, but for two or three years longer, by the same administration that had before so successfully carried it on, we might have treated as absolute victors.

But, Sir, I shall pursue this subject no further, as it is quite foreign to the present question, which is plainly and in short this: whether the people had good reason to clamour so much as they have done against the late act? And this question must be resolved in the negative by every gentleman who voted for that act, and has not since changed his opinion. If, then, they had no good reason to clamour against the act, it must have been misrepresented to them: they must have been taught to clamour against it; and consequently the preamble now under our consideration contains nothing but the truth. This, Sir, is my opinion, and I am confirmed in this opinion by all the conversation I have had since last session; for I never met with one who could be called a gentleman that found fault with the act: I never met with one who did not ridicule the name which the populace had been artfully thrown into; and as other gentlemen have given me the same account of those they conversed with, I must therefore be for agreeing to the preamble as it now stands.

Sir *Richard Lloyd:*

Sir; as this debate has already been protracted to a great length, I shall only trouble you with one observation upon what the hon. gentleman who spoke last concluded with, which is, that if I had been last session as strenuous an advocate as any in this House for the act now proposed to be repealed, and if I still thought that no solid objection could be made against it, yet nevertheless I should be for the amendment which the hon. gentleman has been pleased to offer; because, whether the people have been taught to clamour against this act, or whether their clamour proceeds from their own judgment, which, with respect to many of them, I believe it does not, yet the repeal is certainly designed for putting an end to that clamour, and for giving satisfaction to the people. Why, then, will you prefix such a preamble as may defeat the chief end proposed by the repeal? This I must look on as a little imprudent, and consequently inconsistent with the wisdom of parliament; and as the amendment proposes only to leave out those words that may give a new offence to the people, I think, that for the sake of our own character, we ought to agree to it.

Mr. *William Pitt:*

Sir; if we consider upon what footing, and for what reason, this act is to be repealed, we must admit that the preamble is right, and that it is the only one that can properly be made use of. I am fully convinced: I believe most gentlemen that hear me are fully convinced, that religion has really nothing to do in the dispute; but the people without doors have been made to believe it has; and upon this the old High Church persecuting spirit has begun to take hold of them. We are too wise to dispute this matter with them; as we may upon this occasion evade it without doing any notable injury to the public. But at the same time we ought to let them know, that we think they have been misled; and that the spirit they are at present possessed with, is not a true Christian spirit. If we do not do this, we do not deal honestly or candidly by them; and this we cannot do in softer or more modest terms, than what is proposed by the preamble as it now stands. In the present case we ought to treat the people as a prudent father would treat his child: if a peevish perverse boy should insist upon something that was not quite right, but of such a nature as, when granted, could not be attended with any very bad consequence, an indulgent father would comply with the humour of his child, but at the same time he would let him know, that he did so merely out of complaisance, and not because he approved of what the child insisted on. If he did otherwise, his behaviour would be like that of a sycophant servant, and not like that of a prudent and indulgent parent.

Thus, Sir, though we repeal this law out of complaisance to the people, yet we ought to let them know, that we do not altogether approve of what they ask; and I would desire nothing more for convincing me, that we ought not to approve of it, than what has been admitted by those that have spoken in favour of this amendment. They have admitted, that as good Christians we ought not only to wish, but to use our best endeavours for the conversion of all Jews, Turks, and Pagans. Can we use any endeavours for this purpose, unless we converse with them? Can we converse

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with them, unless we permit them to live and follow their honest employments amongst us? But by our laws, as they stand at present, were they to be strictly put in execution, no alien Jew could easily follow any employment in this country: he cannot export or import any goods without paying the aliens duty, except only those goods that are exempted by particular acts of parliament: he cannot so much as take a lease of a house or shop, nor can any one let him such a lease: and indeed, as Jews are not included in the Toleration act, no Jew could so much as live in this kingdom, if our laws relating to religion were to be strictly carried into execution.

It is true, Sir, neither our ridiculous laws against aliens, nor our persecuting unchristian laws relating to religion, have of late years been carried into execution; but no one can tell when they may; and we cannot expect that any rich Jew will think of settling his family and fortune in this country, when he does not know, but that the very next year he may be driven from hence, by the government resolving to carry all these laws strictly into execution; for from what has now happened it is plain, that in such a resolution the government would be warmly supported by the people. Therefore I must still think, that the law passed last session in favour of the Jews was in itself right; and I shall now agree to the repeal of it, merely out of complaisance to that enthusiastic spirit that has taken hold of the people; but then I am for letting them know why I do so, and this, as I have said, cannot, I think, be done in a more proper method than by the preamble now under our consideration; for which reason I am against any amendment or alteration.

The Earl of *Egmont*:

Sir; I should give myself very little trouble about what sort of preamble you made use of in the Bill now under our consideration, if I did not suspect that the preamble, as it now stands, was inserted by the other House, on purpose to leave room for reviving the act which by this Bill is to be repealed, upon some future occasion, when, perhaps, the voice of the people will not be so much regarded as it is at present. For this reason, if I were to propose any preamble, I should put it in almost the very same words as were made use of in the repeal of some of the clauses of the Plague act, passed in the 7th of the late king, by saying, "And whereas the carrying of this act into execution might be of dangerous consequence, and grievous to the people." This would have left no room for a revival; but really the preamble, as it now stands, seems plainly to indicate, that some people have a design to revive this act as soon as they can find an opportunity; and I have the more reason to suspect this, not only because I find the moderate alteration now offered so strenuously opposed, but because of the maxim which I find has of late been unexceptionably adopted by a great party amongst us: the maxim I mean is, that money does all things, and that therefore the bringing of money into the nation is to be preferred to every other consideration. But I wish that those gentlemen would reflect upon another maxim, I believe much less exceptionable, that money is the root of all evil; for whoever does reflect upon this, will be against bringing any money into the nation that may probably be hereafter employed against us.

Whether the hon. gentleman who spoke last be one of those who have adopted this modern maxim, I shall not pretend to determine. But this I am sure of, that he has brought a very heavy, and, I think, a very unjust charge against the people. The people, Sir, are so far from being laid hold of by any high-church persecuting spirit, that they do not now complain of that liberty given to many sorts of Dissenters by the Act of Toleration, nor do they find fault with that tacit suspension of the penal laws which is extended to Jews, and even to Papists, as well as some other sects who are expressly excluded from any indulgence by that act. But the people very rightly, and very wisely, distinguish between persecuting any sect of religion, and enabling that sect to persecute us. The former no good man will be guilty of: the latter every prudent man will take care to prevent; and this is the only spirit that possesses the people of this kingdom at present. They do not complain of the synagogues which the Jews, by a suspension of the penal laws relating to religion, are allowed to have openly and avowedly in London: they do not complain of the fine houses and gardens which the Jews, by a suspension of the penal laws relating to aliens, are allowed to possess: nor have the people as yet begun to complain of the land estates which some Jews have of late purchased. But I would advise the Jews, and other Dissenters, too, to be satisfied with the indulgence they

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Sir; if we consider upon what footing, and for what reason, this act is to be repealed, we must admit that the preamble is right, and that it is the only one that can properly be made use of. I am fully convinced: I believe most gentlemen that hear me are fully convinced, that religion has really nothing to do in the dispute; but the people without doors have been made to believe it has; and upon this the old High Church persecuting spirit has begun to take hold of them. We are too wise to dispute this matter with them; as we may upon this occasion evade it without doing any notable injury to the public. But at the same time we ought to let them know, that we think they have been misled; and that the spirit they are at present possessed with, is not a true Christian spirit. If we do not do this, we do not deal honestly or candidly by them; and this we cannot do in softer or more modest terms, than what is proposed by the preamble as it now stands. In the present case we ought to treat the people as a prudent father would treat his child: if a peevish perverse boy should insist upon something that was not quite right, but of such a nature as, when granted, could not be attended with any very bad consequence, an indulgent father would comply with the humour of his child, but at the same time he would let him know, that he did so merely out of complaisance, and not because he approved of what the child insisted on. If he did otherwise, his behaviour would be like that of a sycophant servant, and not like that of a prudent and indulgent parent.

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It is true, Sir, neither our ridiculous laws against aliens, nor our persecuting unchristian laws relating to religion, have of late years been carried into execution; but no one can tell when they may; and we cannot expect that any rich Jew will think of settling his family and fortune in this country, when he does not know, but that the very next year he may be driven from hence, by the government resolving to carry all these laws strictly into execution; for from what has now happened it is plain, that in such a resolution the government would be warmly supported by the people. Therefore I must still think, that the law passed last session in favour of the Jews was in itself right; and I shall now agree to the repeal of it, merely out of complaisance to that enthusiastic spirit that has taken hold of the people; but then I am for letting them know why I do so, and this, as I have said, cannot, I think, be done in a more proper method than by the preamble now under our consideration; for which reason I am against any amendment or alteration.

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Whether the hon. gentleman who spoke last be one of those who have adopted this modern maxim, I shall not pretend to determine. But this I am sure of, that he has brought a very heavy, and, I think, a very unjust charge against the people. The people, Sir, are so far from being laid hold of by any high-church persecuting spirit, that they do not now complain of that liberty given to many sorts of Dissenters by the Act of Toleration, nor do they find fault with that tacit suspension of the penal laws which is extended to Jews, and even to Papists, as well as some other sects who are expressly excluded from any indulgence by that act. But the people very rightly, and very wisely, distinguish between persecuting any sect of religion, and enabling that sect to persecute us. The former no good man will be guilty of: the latter every prudent man will take care to prevent; and this is the only spirit that possesses the people of this kingdom at present. They do not complain of the synagogues which the Jews, by a suspension of the penal laws relating to religion, are allowed to have openly and avowedly in London: they do not complain of the fine houses and gardens which the Jews, by a suspension of the penal laws relating to aliens, are allowed to possess: nor have the people as yet begun to complain of the land estates which some Jews have of late purchased. But I would advise the Jews, and other Dissenters, too, to be satisfied with the indulgence they

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now meet with; for if the people should once begin to think that, by this indulgence, the established church may at last be in danger of being overturned and persecuted, a real high-church persecuting spirit will take hold of them; for in all countries, and as much in this as any other, the spirit of the people is but too apt to fly from one extreme to another; and if this event should happen, the hon. gentleman, with all his oratory, would be as little able to calm that spirit as he will now be to persuade the people that they were imposed on, or in the wrong when they demanded the repeal of this law.

If the people be really in the wrong, Sir, they will sooner, and more probably find it out, by your leaving them entirely to their own serious consideration, than by your positively insisting upon it, that they have been imposed on, which you openly and directly do by this preamble; for, in short, it is telling all those that opposed the act, either within doors or without, that the greatest part of them are fools and the rest knaves; which is a pretty bold assertion in any man, let him be never so fully convinced in his own mind, that the act is a good and an useful law. Nor can such an assertion be excused by telling us, that the act met with no opposition from the reverend bench in the other House; for if it did not, I am persuaded it proceeded merely from inattention; and supposing it otherwise, we are not to be surprised at it, when we consider that the Apostles all deserted our Saviour, and one of them expressly denied him, when he was seized and delivered into the hands of the then governing powers. However, they all repented, and most of them sealed their repentance with their blood; and I hope, the reverend bench would do the same, should it ever become necessary, which I trust in God, it will not.

I must therefore think it of very little importance, Sir, whether the reverend bench opposed this act or no, and it is irregular to mention here whether they did or did not. But I was surprised to hear it said, that the argument of its being inconsistent with Christianity was not strongly insisted on in this House, until after the petition came from the city of London, when every gentleman who was present must remember, that in the very first debate upon the Bill, this very argument was peremptorily insisted on by almost every gentleman who spoke against it; and we must also remember, that this was long before any petition came from the city of London. The argument is, indeed, so obvious, and at the same time so forcible, that I wonder how it could escape any true Christian, or how he could answer it to the satisfaction of his own conscience; and therefore I equally wonder how it can be supposed by any gentleman, who considers this as a Christian country, that the people must have approved of this act, if they had not been imposed on and misled.

But, Sir, religion was not the only objection which the people had against this act for permitting the Jews to be naturalized: they likewise looked upon it as a sacrifice of the honour of the nation; for they judged that every Christian, and every Mahometan nation in the world, would hold this nation in contempt, and treat us in the same manner they now do the Jews: they also judged, and rightly judged, that if, in pursuance of this act, a great part of the riches and lands of this kingdom should come to the possession of the Jews, it might be of the most dangerous consequence to our constitution; and if they have never yet shewn any discontent with the act for naturalizing such Jews as shall reside seven years in our plantations, it is because that part of the act which relates to Jews was passed as it were by stealth, without ever making its appearance either in the votes of this House, or in the title of the act, so that very few of the people know that there is such an act, as very few Jews have as yet come here to claim the benefit of it: and I would not advise many of them to come; for if they do, the people will take the alarm, and insist upon the repeal of the act, or upon the putting the laws relating to religion in force against them, which every magistrate may do, who is not under the influence of our ministers of state. I indeed wonder that those great friends the Jews now seem to have in this country, have never yet brought in a Bill, for extending the Toleration act to them as well as to other Dissenters. If the act, which is now to be repealed, should ever be revived, I should expect, that this would be the next step; and in order to get the assistance of our Socinians, Arians, Deists, and other prohibited sects, the extension would probably be made general to sects of every religion, perhaps to those of no religion; whether with such an extensive latitude any established church could subsist, I leave to gentlemen to judge, espe-

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cially as our church lands would be a temptation for its destruction.

From all which I think it is evident, Sir, that the people have not been imposed on or misled, but that they formed their opposition and their discontents from their own judgment; and therefore I must agree to the amendment that has been proposed.

Sir *William Yonge:*

Sir; as I had occasion this last summer to travel as far as the Land's End, and in every part of the country between this and that promontory, to converse with people of all ranks and degrees, I rise up to inform the House, that in all my travels I never met with one man of any consideration, who so much as mentioned this act for permitting the Jews to be naturalized; therefore I must conclude, that the clamour against it has been entirely confined to the lowest sort of people, who never form any opinion from their own judgment; and consequently I must think, that the preamble, as it now stands, was formed from a right and a thorough knowledge of the people of this kingdom.

Now I am up, Sir, I must observe, that this preamble cannot be so much as supposed to insinuate the least reflection upon any gentleman within doors; for though gentlemen may, consistently with their duty to their king and country, oppose any Bill, whilst it is passing, yet when a Bill has been agreed to by a majority of both Houses, and by receiving the royal assent has become an act of the legislature, no man who is a friend to our present happy establishment, will then find fault with it, or take occasion from thence to raise discontents, and to disquiet the minds of his majesty's subjects; therefore, though the people have been imposed on and misled, we cannot suppose that any member of this House had a concern in such a seditious practice.

Admiral *Vernon:*

Sir; the hon. gentleman who spoke last, has convinced me, that the gentlemen of England have more complaisance, more French politesse, than I ever thought they had, and more than I should ever wish they had. They knew that he had voted for the Jews Bill in every step it made last session through this House, and that his friends were the chief promoters of it in both Houses; therefore they were too polite to condemn or find fault with it in his presence; but their having made no mention of it is a proof, that they had so much of the old English sincerity left, as not to applaud with their tongues what they condemned in their hearts; therefore from the information he has given us, I must draw a conclusion very different from what he has done; for I must conclude, that every gentleman he conversed with, had from their own judgment formed an opinion, that this was a most unchristian, dishonourable, and dangerous law; and whatever was the behaviour of the reverend bench, as the lowest sort of people so generally, and so openly exclaimed against it, I must conclude, that the honest unaspiring country curates took care to give the people notice of a law which they thought inconsistent with, and of the most pernicious consequence to the religion they profess, and are sworn to propagate and maintain; for a due notice was all that the very lowest of our people wanted for forming from their own judgment a right opinion of this law. Such sort of people I know, Sir, may for a long time remain ignorant of what has been done by the legislature of their country, if no one takes care to give them due notice of it; but when they have proper information, whatever the hon. gentleman may think, they are generally as capable to form from their own judgment a right opinion, perhaps more capable than those who think themselves much more above the vulgar than they really are.

It is for this reason, Sir, that I totally disagree with the hon. gentleman in the doctrine he was pleased to advance, with regard to the duty of a member of this House: he was pleased to say, that after a Bill has been approved of by a majority of both Houses, and by the royal assent is become an act of the legislature, no man who is a friend to our present happy establishment, will then find fault with it. In an absolute government, where the people without doors, that is to say, who are not members of the monarch's divan, have no share in the legislature, there might be some foundation for this doctrine; but in this country, where the people chuse one of the branches of the legislature, and have a right to instruct those they do chuse, under the penalty of never being chosen by them again, such a doctrine is absolutely inconsistent with our constitution, and in a particular manner, with our present happy establishment, which is founded upon our established religion, and the li-

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berties and privileges of the people, and can no longer remain secure, than those foundations remain unshaken; therefore, if a Bill should by some extraordinary management be passed into a law, which evidently tends to undermine both these foundations, every member of this House who thinks so, is, in duty to our present happy establishment, bound to warn the people of their danger, that they may insist with their representatives upon having such a law repealed the very next session.

This I did, Sir, this I glory in having done; for it was fully made out in the debate upon the Bill, and indeed, it was in itself evident, that it would be of the most dangerous consequence to the liberties and privileges of the Christian people of this nation, to have the Jews possessed of a great part of the landed property of this kingdom, which would be the certain consequence, should this law long remain unrepealed. But really, in that case, I do not know how long the people of this nation might continue Christian; for in all countries the religion of the common people depends very much upon the religion of those that feed and employ them. As the Jews are as zealous for propagating their religion as most other sects, they would insist upon the conversion of every one employed by them, and should they once get the majority of the common people of their side, we should soon be all obliged to be circumcised. That this is no chimerical danger, Sir, I am convinced from what lately happened in my county. There was then a great and a rich Popish lady lived in it, who by connivance had publicly a chapel in her own house, where mass was celebrated every Sunday and holyday. This lady, out of zeal for her religion, had every such day a great number of buttocks and surloins of beef roasted or boiled, with plenty of roots and greens from her own garden, and every poor person who came to hear mass at her chapel, was sure of a good dinner. What was the consequence? The neighbouring parish churches were all deserted, and this lady's chapel was crowded; for as the common people have not learning enough, no more than some of their betters, to understand or judge of abstruse speculative points of divinity, they thought that mass with a good dinner was better than the church service without one; and probably they would judge in the same manner of a Jewish synagogue. Therefore, if the Jews were possessed of the best estates and finest houses in every county, there is some reason to doubt if the people of this nation would long continue Christian.

But, Sir, though the common people cannot judge of abstruse points of divinity, they can from their own judgment determine, that Judaism is the direct opposite to Christianity; consequently, whilst they do continue Christian, and have no temptation to the contrary, they must be displeased with any thing that tends to the introduction of Judaism amongst us, which this act plainly does. From whence I must conclude, that it was the act itself, and not any occasion taken from it, that has raised discontents, and disquieted the minds of the people, both high and low; and therefore I must be for the amendment proposed to be made to the preamble of the Bill.

Upon the question being put, whether the words should be left out, it was carried in the negative; and the Bill, after the third reading on the 28th, was passed, and received the royal assent on the 20th of December.

But the enemies of the Jew Bill carried their resentment against it farther than a bare repeal. By an act then in force, intitled, "An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled, or shall settle in any of his majesty's colonies in America," all Jews complying with the terms of that act, were entitled, to all intents and purposes, to be naturalized in England, and consequently the repeal of the act might be of very little signification. Therefore Mr. George Cooke moved for an Address to his majesty, that he would give directions for laying before that House a copy of the Lists transmitted by the secretaries of his majesty's respective colonies in America, to the office of the commissioners of trade and plantations, containing an account of the names of all such persons professing the Jewish religion, who had, since June 1, 1740, intitled themselves to the benefit of the said act. This motion being agreed to, the papers were laid before the House; but it appeared, that very few Jews had taken the benefit of the act. Lord Harley however, eldest son to the earl of Oxford, upon consideration that a great number of Jews might become naturalized subjects by that act, and that those who did, were free from the restrictions of other acts of naturalization, moved for leave to bring in a Bill, to repeal so much of the said act,

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as related to persons professing the Jewish religion, who should come to settle in any of the said colonies after a time to be limited. This motion, which occasioned a great deal of debate, and was rejected by a majority of 208, against 88.

*Debate in the Commons on the Bill for prohibiting the Wearing and Importation of Cambrics and French Lawns.**] Dec. 12. Sir John Barnard moved, that an Act, made in the 18th of his present majesty, intituled, "An Act for prohibiting the wearing and importation of Cambrics and French Lawns;" and also that an Act, made in the 21st of his majesty, intituled, "An Act for explaining, amending, and enforcing the said Act, might be read." And the same being read accordingly,

Sir *John Barnard* said:

Sir; although I still highly approve of the principle upon which these two acts were founded, yet I am now from experience fully convinced, that our zeal for this principle did in this case, as in many others, mislead us into a measure which defeats the very end it was intended to promote. The principle I mean is, that of discouraging, by every lawful method in our power, the trade of that nation, which is now our greatest rival in every branch of manufacture, and which will always be the most natural, the most constant, and the most dangerous enemy to this kingdom. This is a principle which every true Englishman must approve of, and this was, I hope, the only principle; with most gentlemen then in this House, I am sure, it was the only principle, upon which these two acts were founded; but it now appears, that these two acts rather tend to promote than to discourage the consumption of French manufactures in this country; for the manufacture called cambric, or French lawn, is so very like the lawns made in Germany, or here at home, that it is impossible to distinguish the one from the other, any way but by the different method in which they were formerly done up; and as soon as the first of these acts was passed, the French manufacturers presently fell into the method of doing up their cambrics and lawns in the very same manner in which the German lawns are done up; so that if cambrics and French lawns can by perjury be entered as German lawns, which they often are, they pay a less duty than they formerly did, or if they can be clandestinely run into this kingdom without paying any duty, the shop keeper may expose them to sale as German or home made lawns, and his customer may wear them as such, without its being possible by means of these laws to prevent the one or the other, or to subject either the retailer or consumer to any penalty: nay, were it possible, it would be cruel and unjust, because both may, and I really believe often are, by their invincible ignorance, entirely innocent of any crime, or of any offence against the laws you have made.

The impossibility of carrying these acts into execution is therefore, Sir, apparent from the nature of the case, and this has now been fully confirmed by several years experience. But though this be of itself a good reason for their repeal, yet this is far from being the best reason. If they were nothing more than useless and inexecutable, they might with many others be left to encrease the unwieldy volume of our statute book, and to perplex our lawyers; but these laws are far from being insignificant, they are productive of many and great mischiefs; for instead of preventing or lessening the consumption of French manufactures in this kingdom, they have and always will increase it; therefore when I propose their repeal, I hope I shall not be upbraided with being an encourager of the French trade; for this reproachful character belongs only to those who, notwithstanding their being made sensible of the bad effect of these laws by experience, are yet for continuing them in force. Before the enacting of these laws, cambrics and French lawns were allowed to be imported and wore as such, but then all foreign cambrics were by an act of the 15th of his present majesty subject to a duty of 2*s.* 10*d.* on every 13 ells, over and above all former duties, and all French lawns were subject to a duty of near 18*s.* 6*d.* per piece, so that both French cambrics and lawns paid upon importation not only high duties, but much higher duties than any other foreign cambrics or lawns, which not only obliged our people to apply other foreign cambrics and lawns to every use to which they could possibly be applied, but also encouraged our linen manufacturers to set up a manufacture of cambrics and lawns, and this manufacture was really come

* From the London Magazine.

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some length when our antigallican zeal induced us to do by the first of these two acts, what no nation, I believe, ever did before, that is, to prohibit the consumption of a home manufacture no way prejudicial to the health or morals of our people. But ever since the passing of the first of these acts French cambrics and lawns have been imported or smuggled in upon us under another name, without paying any duty at all, or near so high a duty; and this has not only greatly increased their consumption, but prevented the increase at least, if not diminished our own manufacture of that useful sort of linen.

Another mischief, Sir, which these laws have contributed to increase, is the abominable and dangerous crime of perjury. I wish I could say that this mischief had by them been introduced. But it was long before introduced, and has been growing upon us ever since we departed from that ancient maxim of the law of England, never to allow, much less to compel any man to swear in a case where it appeared that his own interest might tempt him to take a false oath, or to perjure himself. This, Sir, was the ancient law of this kingdom, for the common law permitted no man to swear where his interest was concerned, except in matters of a very trivial nature, or where he could bring a number of honest neighbours to declare upon oath, that they believed what he swore to be true. In those days we had but small customs and no excises, and consequently no custom-house or excise oaths; and as to our Court of Chancery, and all the proceedings therein, they were first introduced by the Church in the days of Popery, which did then, and I fear does still, in their courts, make a little too free with the administration of oaths. However, an oath was, till towards the end of last century, so very rarely administered to a man in any case where his interest was concerned, that perjury was seldom heard of; but since that time it has become so usual to administer oaths in such cases, that even perjury itself is become familiar to the people, so familiar that every man's life and fortune is thereby exposed to danger, and no law lately made could contribute more to this growing evil, than the two I have now under my consideration; for first, as to the importer, I am persuaded, that many of them know, the goods they are to enter to be French, yet as they can make no legal entry by any other means, they swear to their being Dutch or German, and are by that means entitled to sell them openly to their very great advantage: then as to the venders and wearers, they, if convicted, are to be free from all penalties by charging upon oath, perhaps falsely, some person with having sold the goods to them; and as to informers they are by their oaths to entitle themselves to the sum of *5l.* or perhaps to several sums of *5l.* each; so that these laws, if carried into execution, would be of the most dangerous consequence to the morals of the poor and the property of the rich. But in this respect our juries seem to be wiser than our legislators; for they seem to have resolved to find no man guilty upon the oath of any informer; and it is a right resolution, for no honest man will swear positively to any piece of cloth being either a cambric or a French lawn.

A third mischief very much increased, Sir, by these acts, is that of smuggling. An importer of linens is perhaps told by most of the retailers his customers, that he must take some method or other to furnish them with cambrics and French lawns done up in the manner of German lawns, because for the satisfaction of their customers they must have such goods in their shops, and unless he will undertake to do this, they plainly insinuate, that they can no longer deal with him. What can such an importer do? he knows he cannot legally enter such goods without taking or procuring some person to take a false oath: the man has, perhaps, some traces of religion still upon his mind: he boggles at perjury, or being a suborner of perjury: therefore of two crimes he chuses to be guilty of what he justly thinks the least heinous, and from that day resolves to become a smuggler. This, Sir, is far from being an imaginary, it is a reasonable supposition; for I am persuaded that these acts have made several merchants become smugglers, that would otherwise never have thought of being so. These acts, Sir, have not only increased the number of smugglers, but whilst they continue they will always render the trade more profitable than it could otherwise be, because they contribute greatly towards making up such a valuable little cargo for a smuggling vessel, as renders it worth while to run the risk and be at the expence of smuggling the whole; and by this means they increase the smuggling of tea, and every other commodity that can possibly be clandestinely run into this kingdom from

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any foreign country whatsoever, which is not only a great disadvantage to the fair trader, but very much diminishes the public revenue; and this is a consideration which, in our present circumstances, ought to have weight not only with ministers, but with every one who has the honour of a seat in either House of Parliament.

The last mischief I shall mention, Sir, is the prejudice done by these acts to our own infant manufacture of cambrics and lawns. They have hitherto found means to continue it a little, or rather just to keep it alive by selling their cambrics under the name of lawns; but the French cambrics and lawns are now sold so cheap, by means of their being clandestinely run and sold without paying any duty, or by means of their paying only the same duty with other foreign lawns, that we cannot expect any increase, and I am afraid the undertakers will at last be forced to give it up entirely. We know that when the first act was before the House, a motion was made by a noble and worthy member, who thoroughly understands as well as zealously promotes the true interest of his country, to except our home-made cambrics from the prohibition intended by the Bill; but there being then a war between the two nations, our antigallican zeal was so furious, that no ear was given to the motion, though a method might easily have been found for putting such a mark upon our home-made cambric, as would have rendered it impossible, or at least very dangerous, for any linen draper to pass foreign cambrics for home-made. I hope time and experience has at last brought our zeal a little under the government of our reason, and if it has, we cannot but see that what was intended as a prejudice, has turned to the advantage of the trade of France, and to the prejudice of our own; therefore, I shall conclude with moving for leave to bring in a Bill to repeal both the acts that have been now read to you, which will of course leave cambrics and French lawns liable to all the heavy duties to which they were liable when these acts were passed; and this, I am sure, will very much lessen the present consumption.

Mr. *George Grenville*:

Sir; in every thing relating to trade, I always rise up with great diffidence to speak against what has been proposed or supported by the hon. gentleman who spoke last; but in the present case I must say, my diffidence is not near so great as usual; for I am so fully convinced of the utility and even the necessity of the two acts he proposes to have repealed, that I am convinced he would not have made the proposal, if he had not doubted of two facts, which I think are certain to a demonstration. The two facts I mean are, first, that these acts have already had a very good effect by introducing among numbers of people the wear of muslins or German lawns instead of cambrics; and the second is, that any man who has a tolerable skill in linens may distinguish cambrics and French lawns from any other sort of linen, not only when they are in the piece, but even after they are made up in any kind of garment. The first of these facts I know of my own knowledge to be true, because there are numbers of persons of my acquaintance who have never worn any thing like to cambrics or French lawns ever since the acts took place. And as to the second fact, I have been assured of it by so many disinterested and credible persons of all ranks, that I can no more doubt it than I can doubt of a fact supported by the strongest and most authentic witnesses.

I shall indeed grant, Sir, that there may still be numbers of persons in this kingdom, who in defiance of the law sell or wear cambrics or French lawns, and I shall grant, that prosecutions upon this head have rarely happened; but this is no reason for repealing a law which in itself must be allowed to be wise and just. We have many laws against breach of Sabbath, against tippling, against gaming, and several other immoralities: we know that they are daily transgressed; and we likewise know that the transgressors are very seldom, if ever prosecuted or punished; yet surely, no gentleman will say, that all these laws ought for this reason to be repealed. This is the case, and will always be the case with regard to all laws made against offences that are not in themselves very atrocious: the character of an informer is so contemptible, especially when the information is supposed to proceed from a mercenary motive, that no man or very few choose to run the risk of having such a character fixed upon them; and therefore very few choose to become prosecutors of any offence, unless it be such an atrocious crime as intitles the prosecutor to the thanks of mankind in general, as well as to a reward from the society to which he belongs. Yet still it cannot

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be said, that such laws have no effect; because some men may, probably, be thereby restrained, and they stamp a disagreeable character upon those who audaciously transgress them; therefore, if the laws be in themselves just and right, if the offences be such as ought to be restrained, the laws ought to be kept in force. Is not this the case with regard to the two laws now under consideration? Will any gentleman say, that it would not be just and right in us to prevent, if possible, the consumption of any foreign cambrics or French lawns in this kingdom? If we cannot do it effectually and absolutely, let us do it as far as we can, and let us for this purpose continue these laws in force. They have already, to my knowledge, had a great effect upon the better sort of people, and this may probably in a few years so alter the fashion, that it may hereafter become as unfashionable to wear cambrics or French lawns as it was a few years ago to wear any thing else; for though I do not, yet some amongst us, I believe, remember the time when there were no cambrics or French lawns worn in this country.

For this reason, Sir, I hope these laws will be continued and enforced, if found necessary; for should they be once repealed, let the necessity for reviving them appear hereafter never so pressing, we should find great difficulty in getting it done. In time of war it is easy to introduce a prohibition of any of the manufactures of the country you are at war with, and being once introduced, it is easy to continue the prohibition after the peace is restored. But to attempt any such prohibition in time of peace, would occasion such altercations between the two nations, that ministers rarely chuse to involve themselves in such troublesome contests. And yet if these laws were repealed, I am persuaded, that we should daily see such entries of foreign cambrics and French lawns made at our Custom House, that in a few years we should have petitions from every county and corporation in the kingdom for having those laws revived; and whatever the hon. gentleman may now think, he would then find himself branded with a character which, I am sure, he very little deserves; because I am convinced, that his present motion proceeds from his jealousy of France, and not from any friendship or good-will towards that nation; yet so different are our sentiments upon this head, that from the same motive, I think myself obliged to oppose his motion. The motive every Englishman must approve, however he may differ about the means; for a jealousy of France is what we ought always to entertain in time of peace as well as war; and happy had it been for this nation, had our ministers been guided by such a motive. But foreigners would, I am sure, be at a loss to determine what motive this House of Commons was guided by, should they hear of our having in one session denied the French the liberty of selling us their champaign wine in bottles, by which they could have reaped no advantage, but that of selling us a few of their bottles, and the very next session granting them liberty to sell us as many of their cambrics and lawns as they pleased, by which they might reap an advantage of 2 or 300,000*l.* a year.

I therefore think, Sir, that for the sake of consistency in our proceedings, if there were no other reason, we ought not to repeal these laws, unless some better reason could be given for that repeal than any I have yet heard; for as to the mischiefs mentioned by the hon. gentleman, there is not one of them that can, in my opinion, be either introduced or increased by these laws. For as to the importation under a new name, or the smuggling of French cambrics and lawns, it is not possible to suppose, that either has been encreased by the passing these laws; because if it had been possible to enter them as German or Dutch cambrics or lawns, by doing them up in the same manner, I am fully convinced, that the method would have been found out and practised long before these laws were passed, in order to save the additional duties payable here upon all French goods. But supposing the method to be possible, and that it was never found out until after these laws were passed, could we put a stop to it by the repeal of these laws? If it be possible to distinguish French cambrics or lawns from those of some other countries, when both are done up in the same manner, it is certain we could not put a stop to this practice by any law now in being, and it is as certain that the practice would be continued after the repeal of these laws as well as before, in order to avoid paying the high additional duties payable, as I have said, in this country upon all French goods; for we all know, that by an act of the 4th and 5th of William and Mary, and ever since continued, a duty of 25*l.* per cent. over and above all duties then before

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payable, was laid upon all French goods; and by an act of the 7th and 8th of William 3. and ever since continued, another 25*l.* per cent. over and above all duties then before payable, was laid upon all French goods; so that all French goods entered as such must now pay a duty of 50*l.* per cent. more than is payable upon the same sort of goods from any other country. Therefore we must suppose, that if these high duties upon French goods can be avoided, by doing up their cambrics and lawns in the same manner with Dutch or German, and entering them as such, the practice now said to be begun will be continued though the laws now under our consideration were repealed. And this must likewise shew, that the practice of smuggling could not have been increased by these laws; for though I have as good an opinion of our merchants as any gentleman can or ought to have, yet I believe there are very few of them that would pay a duty of 50*l.* per cent. if he had any hopes of avoiding it by a clandestine entry. No law, therefore, could increase the practice of smuggling such goods, unless it had something in it which might render the practice of smuggling more safe and easy; and no such thing can, I am sure, be said of either of the laws now proposed to be repealed.

As to the crime of perjury, Sir, it is certain, that it has not been increased by these laws, because few or no prosecutions have been ever commenced in consequence of them: and as to our importers swearing French cambrics or lawns to be Dutch or German, I have shewn, that it will be practised, were these laws repealed, as much as it is now. I confess, Sir, that if it were possible, it would be right never to allow any man to swear in a case where he might benefit himself by his perjury: but in our present circumstances I do not think it possible; because if we were to embrace or revive this maxim, we must repeal all our laws for giving a reward to any informer, or for giving a pardon or reward to any accomplice that shall discover and convict his accomplices; in which case it would be impossible to discover, much more to convict and punish most of our atrocious criminals; for their accomplices are never, I believe, induced by compunction alone to become informers, and it would be equally impossible to raise or collect our public revenue, in the manner it is now raised, or indeed in any other manner. We must therefore continue the practice which an alteration in our circumstances has introduced and made absolutely necessary, though it be a little contrary to the ancient maxim of our law; and our method of trial by juries renders the continuance of it less dangerous in this country than it would be in any other; for it very seldom happens that an innocent man is by perjury convicted of any crime or offence, unless he be such a one as has by his former conduct rendered his character very suspicious.

With regard to smuggling, Sir, I have already shewn, that it neither has been or can ever be increased by these laws, as there is nothing in them that can render that vile practice more safe or easy than it was before; therefore it cannot properly be said that the public revenue has suffered or can suffer by them. But suppose that this were really true, I should think it a consideration of very little weight in a question where the encouragement or discouragement of the trade of our most dangerous rival is concerned. It was not allowed to have any weight at a time when we were engaged in a heavy and expensive war, and I should think it strange to find it thought to be of more weight in a time of profound tranquillity.

And now, lastly, Sir, with regard to our own manufacture, I am surprised to hear it said, that our own manufacture is prohibited by these laws. It never was, it never can be prohibited by these laws; for suppose a sort of cloth should be made in Britain or Ireland exactly resembling cambric, or that sort of foreign cloth which got its name by having been first made at Cambray, I am sure, the manufacturer would not, nor indeed could properly call it by that name; and surely, no court nor judge in England would determine it to be cambric, because the informer or prosecutor was pleased to call it so. This I am convinced was the true reason why the motion for excepting home-made cambrics was not attended to, because the wearing of such sort of cloth neither was, nor was intended to be prohibited by the Bill; for if any such thing had been intended, it would have been necessary to have altered the expression, and to have said, that no person shall wear any sort of linen cloth resembling cambric or French lawn. No sort of home manufacture therefore can suffer by a prohibition, which neither is nor ever was intended; and consequently if it suffers by these laws, it must be by their promoting smuggling, which I have

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shewn they never did nor can do, or by their diminishing the duty payable upon foreign cambrics, which they cannot be supposed to do, without first supposing that cambrics and French lawns may be entered as Dutch or German lawns, and without a possibility of detecting and punishing the fraud; and if such a fraud be now possible, I have shewn that it will be practised after these laws are repealed, as much as it is at present.

From all which I must conclude, Sir, that these laws, if continued, will encourage our home manufacture of a sort of linen cloth resembling cambrics and French lawns, because though they have not proved so effectual for the end intended as I could wish, yet it must be allowed, that they are some sort of check both upon the wearers, and upon the dealers in cambrics and French lawns. They have not as yet, it is true, put an entire stop to the consumption of such foreign commodities, but by their means the same good effect may at last be brought about in our linen, as was formerly brought about in our silk manufacture, by a law that at first proved as ineffectual as these have done. The law I mean is that of the 3d of queen Anne, which prohibited the importation of any goods of the growth, product, or manufacture of France, during the war. Notwithstanding this law, French silks continued for a long time to be introduced amongst us, either by smuggling, or by false entries from other countries; however, the prohibition so raised the spirits and the hopes of our own silk manufacturers, that before the war was ended, they made as good silks, and sold them as cheap as any that could be brought from beyond sea; and now they not only furnish the whole of our home consumption, but make a great many for exportation; and the same effect will, I hope, at last be produced in our linen manufacture by means of these prohibitory laws, for which reason I must be against their repeal.

Mr. *William Beckford*:

Sir; I have long observed, that in all contests about trade, gentlemen being of a different opinion, generally proceeds from their differing in facts; and this is the very case in the present debate. But in my opinion the chief fact to be enquired into on this occasion, has not as yet been plainly enough stated: the fact I mean is, whether the French have got or lost by these two acts? Upon this question I never was more positive in any opinion than I am, that the French have been considerable gainers by these two laws; and yet I will agree with the hon. gentleman who spoke last, that since the passing of these laws, several of our quality and rich people have left off wearing cambric or French lawn. But, Sir, it is in this that the advantage which the French have reaped by these laws chiefly consists. Some gentlemen and ladies have, it is true, left off wearing plain cambric or French lawn; but what do they wear instead thereof? Muslins finely embroidered, or what we call Dresden work. The French, indeed, at first took some of the muslins for this purpose from us; but all the embroidery was done in France; and after being by this means surprisingly enhanced in its price, was again returned to us either by smuggling or false entries. I say, surprisingly enhanced in its price; for a fine gentleman pays perhaps two or three guineas for a pair of ruffles of this sort, the muslin of which did not cost the French 6*d*. And a lady of quality pays for an apron of this sort, perhaps, as much as would purchase a horse-load of cambrics or French lawns. From hence we may judge what a vast advantage the French have reaped by our enticing some of our fine folks to wear their Dresden work instead of their cambrics and lawns. Thank God! the fashion has not as yet descended or become general among the lower sort of our people; but then the custom of wearing plain cambric or French lawn has descended much lower, and become much more general than it was when these acts were passed; from whence I am almost certain, that besides this Dresdren work, the French now sell us more of their cambrics and lawns yearly, than ever they did before the passing of these laws: for God knows, our own manufacture is as yet come but a very small length, and though they cannot be distinguished by the eye, yet people find that the German lawns do not wear so well as French, which makes them generally ask for the latter.

I therefore think it evident, Sir, that the French have hitherto been considerable gainers by these laws; but the hon. gentleman is hopeful that the example of the rich may soon alter the fashion, and introduce the wearing of this Dresden work among all ranks of people. Sir, I hope it never will, for the French would draw more money out of this kingdom by such

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a fashion than they now do by their cambrics and lawns; and as they have now as flourishing an East India trade as we have, they would certainly furnish themselves with muslins for this purpose from India, which would be an encouragement to their navigation; and this we ought to be more cautious of, than of encouraging any branch of their manufacture. Therefore if our East-India company hope that by introducing such a fashion they might be gainers, they would find themselves very much disappointed; because they must never again expect such a demand for their muslins as happened when these acts took place; for the French East India company having no call for that commodity, had then brought home little if any; and besides, the great demand was then, I believe, made by our smugglers, who expected to entitle themselves to the drawback by the exportation, and then to run it again in a clandestine manner; for even they could not suppose, that the wisdom of our legislature had made an act which could not be carried into execution. But I have no great fear that ever this fashion will prevail; for though the great and rich are pretty much masters of what is called fashion, yet in this country they are not absolutely so; and therefore, when they attempt to introduce a very whimsical or troublesome fashion, it is seldom mimicked by any but the coxcombs at court, and never outlives their resemblance the butterfly.

Having now, I hope, shewn, Sir, not only that the French have reaped a great advantage from the laws now, for that reason, proposed to be repealed, but also that this advantage would rather be increased than diminished by the new fashion which the hon. gentleman hopes may in time be introduced, let us next see if we can hope for any diminution of this advantage from the success of our own manufacture of cambrics and lawns. For this purpose, Sir, we must enquire into the rise of this sort of home manufacture, and every one knows that it was the act of the 15th of his present majesty which encouraged our linen manufacturers to make the attempt; for that act gave them a great advantage by laying a new duty of 2*s*. 10*d*. per piece on all cambrics imported, as my hon. friend was pleased to mention; for as the method of doing up cambrics in the manner of lawns had not been then invented, this duty was regularly paid; but necessity is the mother of invention, and in confirmation of this maxim, when we introduced the necessity by prohibiting the importation of any cambrics, this method was presently invented, and has been ever since, nay, will be practised, at least as long as this prohibition continues in force. By this means our home manufacturers have been ever since deprived of the advantage they got by the act of the 15th of his present majesty, and their carrying on this manufacture to any advantage, has been rendered almost impossible, by our prohibiting the sale and the wear as well as importation of any thing that looks like cambric, and by the increase of smuggling which this prohibition has occasioned. I say, Sir, prohibiting the sale or the wear of any thing that looks like cambric; for every man without doors supposes that this is the sort of prohibition intended by the acts, and indeed if this was not the intention, no other intention can be supposed but what must appear ridiculous; for it can be only this, that no sort of linen cloth to be worn in this kingdom shall be called cambric or French lawn. Could any lawyer put such a ridiculous meaning upon an act of the British legislature? Can any one suppose that an act so interpreted could have any effect, unless among the male and female coxcombs I have mentioned, who are so fond of every thing called French, that our mercers often sell them the genuine product of Spital-fields at an excessive price, by insinuating slyly that it is a new-fashioned silk just come from France? And as to smuggling, Sir, does the hon. gentleman think, that there is no difference between promoting smuggling by high duties, and rendering it absolutely necessary by an express prohibition? In the former case an honest merchant, to oblige some of his customers, may import legally and pay the high duties, though he loses by the adventure; but in the latter, he must either disoblige and lose his customers or become smuggler. From this consideration I appeal to the common sense of mankind, if these acts have not increased the practice of smuggling; and consequently while they continue in force our own manufacture of cambrics and lawns can never prosper; for as cambrics and lawns are less liable to be damaged, and may be more easily as well as safely smuggled than silks ever could, the case with respect to them is very different.

I am therefore fully convinced, Sir, that whilst these acts continue in force,

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we can never expect to lessen the advantage which France reaps from us by the sale of their cambrics, their lawns, and their Dresden work: but now let us examine how the case will stand, should these acts be repealed. As the method of passing cambrics for lawns is now found out, I do not question its being continued; but I will say, that it could not be so easily practised, because by these unpopular laws we have thrown the popular prejudice against every custom-house officer that shall seize any cambric entered as lawn, from whence no such officer can expect a verdict in his favour upon a trial, and therefore none of them ever attempt to make any such seizure: the case is the same as when you by statute inflict too severe a punishment upon some small crime, you can never get a jury to convict the offender: whereas were these unpopular laws once repealed, the popular prejudice would always be in favour of the officer, from whence he would stand at least a fair chance for a verdict and condemnation. And if this should be found ineffectual for putting a stop to the fraudulent practice, we might extend the additional duty to all foreign lawns as well as cambrics, out of which we might give a bounty upon all those made at home, which would be such an encouragement to our own manufacture, as would in a few years put an end to our having occasion for any foreign.

But whatever may be the fate of these laws, Sir, I hope a stop will be put to a most infamous practice that has been not only connived at, but openly allowed, if not authorised, I am sorry to say, ever since the accession of our present royal family. The hon. gentleman who spoke last informed you of the high duties all French goods are liable to when imported as such; and indeed they are so high that one cannot help being surprised, how any French goods could ever be imported, that could be had in any other country. I shall explain this mystery. In old times we know, that the town and port of Dunkirk belonged to Spain, and all goods imported from thence were entered at our custom-house as Flemish, or goods of the Spanish Netherlands: when this port was treacherously sold to France by our ministers in king Charles the 2nd's reign, this method of entry ought certainly to have been altered by our custom-house, and all goods imported from Dunkirk ought to have been entered as French goods; but as it was for the interest of France, we cannot wonder that the old method of entry was continued during the Frenchified reigns of that king and his brother. The only wonder is, that it should have been continued even after the peace of Ryswick, when all French goods were liable to the additional duty of 50*l.* per cent. mentioned by the hon. gentleman; for by continuing this method of entry all goods imported from Dunkirk were freed from this additional duty. However, this infamous practice was soon interrupted by the war re-commencing in the beginning of queen Anne's reign, and one would have thought that a end was put to it by the treaty of Utrecht, in which it was expressly stipulated, that the harbour of Dunkirk should be filled up, and never again repaired; and by the triple alliance between England, France, and Holland in 1717, it was again stipulated, that nothing should be omitted which the king of Great Britain might think necessary for the entire destruction of the port of Dunkirk, and that for carrying on the commerce necessary for the subsistence and maintenance of the people of that part of the Netherlands, no vessel should be employed but small boats not exceeding 16 foot wide.

After such express stipulations, Sir, is it not astonishing, that in a year or two our custom-house should admit ships and goods to be entered as coming from the port of Dunkirk, and that this practice should have been ever since, and is even now openly allowed and authorised by our custom-house? But, Sir, there is something still more astonishing: the ships are not only allowed to be entered as coming from, or bound to the port of Dunkirk; but all the goods these ships import, except French wines only, are allowed to be entered as Flemish. By this means all the French brandies were entered as Flemish, and thereby freed from the French duties, until the 6th of his present majesty: by this means all the French cambrics and lawns were entered as Flemish, and thereby freed from the French duties, until the first of the two acts now under consideration was passed; and by this means, I believe, they are still entered as Flemish lawns. In short, we have to this day nothing of any consequence entered from any other port of France but wines and brandies, and indigo or such drugs as by an act of the 8th of the late king were declared free from all

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duties; so that nothing but French wines now pay the additional French duties. And as the whole trade between France and England is thus carried on chiefly through Dunkirk, it is now become a flourishing city; whereas it could otherwise have been nothing but a small, pitiful, nasty fisher-town, not worth the keeping, much less the fortifying.

Sir, the hon. gentleman was in the right when he said, that we ought always to be jealous of the French in time of peace as well as war; for they have always done us more harm in time of peace than they could ever do in time of war. I am jealous of them on many accounts, and among others, because they have by high duties in a manner prohibited every thing of the growth, product, or manufacture of this country, except our corn and our wool, which they find necessary for the support of their poor, and their manufactures, and our salt provisions, which they find necessary for the support of their navigation and colonies. But from the instance I have given, and from many other which I could give, it appears that our ministers have never since the treaty of Utrecht been influenced by any such jealousy; on the contrary, we know, that they once joined with France for reducing what they then called the overgrown power of the House of Austria; and for many years seemed to be directed by France in every treaty they made, and every negociation they entered into.

What such a conduct will end in God alone knows; but whilst I have the honour of a seat in this House, my conduct shall be directly contrary; and consequently I must be for the repeal proposed, because I am convinced, that if these laws were repealed, and proper instructions given to the commissioners and officers of the customs, not to admit of the entry of any ship or cargo from Dunkirk, and to take due care to raise the French duties, very few French cambrics or lawns would ever enter this kingdom, because they cannot be legally imported from any other country; and the expence and risk of smuggling them will always exceed the duties payable upon the cambrics or lawns of other countries, so that those of France, even when smuggled, could not be sold so cheap as those of any other country; and in a few years I hope we shall be able to furnish ourselves from our own manufacture; therefore, Sir, I shall most heartily concur with my hon. friend in his motion.

Mr. Alderman *Baker:*

Sir; the fact which the hon. gentleman who spoke last set out with, and in which he seemed to be so positive, is, in my opinion, a fact which it is impossible for us to determine with any certainty: we must judge from probabilities only; and to me it seems to be a sort of paradox to affirm, that any nation can be a gainer by our prohibiting the wear of one of their principal manufactures. That many of our people have begun to wear muslins instead of cambrics, is a fact that has not been contested, nor indeed can it be, because we have in this House ocular demonstration of it. So far, therefore, the consumption of French cambrics and lawns in this kingdom must necessarily be diminished. This is such a demonstration that the French have been losers by the two acts now proposed to be repealed, that in order to evade it several facts have been asserted, of some of which, I think, we have no proof at present before us; and as to others they are such as cannot be supposed to have been occasioned by these acts.

In the first place it is said, Sir, that those who do wear muslins instead of cambrics, wear nothing but the fine Dresden work, which is much dearer than the finest cambrics. This I shall admit is pretty generally, though not universally true; but it can be of no consequence in this debate, without an additional fact which I cannot admit, as there is not the least tittle of proof now before us, and as there is a very strong presumption against it. The fact I mean is, that all this Dresden work is the manufacture of France; for it is said that the French, as soon as the first of these acts passed, bought up great quantities of our muslins, and sent them back to us again in this sort of Dresden work, by which that nation got infinitely more than it would have got by an equal quantity of the finest cambric. It is true, Sir, when that act passed, the price of muslins rose considerably, because it was thought that the people in general would have shewn some regard to an act of parliament, though they had shewn none to the interest of their country, and that consequently most people would at once have come into the wear of muslins, which induced many shop-keepers to lay in great quantities of muslins, and this made a greater demand than the stock then on hand could answer; but I believe it would

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appear upon inquiry, that no extraordinary quantity of muslins was upon that occasion exported to France; and if there was, it could not be with a design to re-import them in the shape of Dresden work; for I doubt if such an importation would have been allowed at our custom-house, or if it had, they must have paid the high French duties, which would have so much enhanced the price, that they must have been losers by the adventure; because they would have been undersold by the Germans, who, as is evident from the very name, were the first inventers of this sort of work, and who can still make it as fine as any that can be made in France.

There is, therefore, I think, Sir, a strong presumption that very little, if any, of the Dresden work now worn in this kingdom ever came from France; and if the wear of this sort of work should become general, I can see no reason why we may not hope, that the whole of the consumption would in a short time be supplied by our own people: surely, it would be no scandal to a lady, even of the first quality, to have a fine Dresden work apron of her own working: and all our gentlewomen of no fortunes, or but very small fortunes, would certainly apply themselves to this sort of work, and might thereby support themselves in a decent manner. But supposing our own people so idle or so stupid, that no such work could be made here, I think it is evident that we shall always be chiefly supplied from Germany or the Austrian Netherlands, because of the high additional duties upon all goods coming from France: and I should rather chuse that the Germans should take 200,000*l.* yearly from us for Dresden work, than that the French should take 100,000*l.* yearly from us for cambrics and lawns; from all which I think it is most probable, that the French have been, and always will be, losers by our people's wearing muslins instead of their cambrics and lawns: and if the consumption of cambrics and lawns has increased since these laws were passed, by the use of them becoming more general among the lower sort of people, this increase cannot surely be ascribed to these prohibitory laws, nor is it possible to suppose that the present consumption would be diminished by their repeal. On the contrary, if these acts were repealed, and an entire liberty thereby given to wear cambrics and lawns, the humour of the people, like a man just freed from prison, would be apt to run into an extravagant use of that liberty which it had just again acquired; and therefore, if the French have not been losers by the making of these laws, I am fully convinced, they would be very considerable gainers by their being repealed.

This, Sir, must always furnish us with a strong argument against the repeal of these laws: and now I shall consider the arguments that have been advanced in favour of it. In the first place we are told, that they are, and must always continue to be absolutely inexecutable, because of its being impossible to distinguish between cambrics or French lawns, and some sorts of German lawns, when the pieces are done up in the same way, or when they are cut and made up into any sort of apparel. Now this is a fact which is very much contested, and consequently cannot be a solid foundation for any argument. When they have been made up into apparel and several times washed, there may be some sort of difficulty to distinguish: but whilst they are in the piece, I am persuaded, they may be distinguished; therefore, I am of opinion, that the difficulty of conviction has hitherto proceeded more from the humour of the people than from the impossibility of making this distinction; but as this humour is not founded in reason, as it is inconsistent with the public interest, it may soon take a very different turn, and the conviction of two or three shop-keepers would so frighten all the rest, that none of them would ever allow a piece of cambric or French lawn to be brought into their shops; much less would any merchant attempt to enter them as German lawns: even our smugglers would find great difficulty in disposing of their goods, if none of our shop-keepers allowed them to be brought into their shops.

This cannot therefore, Sir, be an argument of any weight for repealing a law which has certainly done some good already, and may in time fully answer the end proposed: and the next I shall take notice of is, that these laws have increased, and must always contribute to the increase of perjury amongst us, because they oblige men to swear in cases where their own interest may tempt them to swear falsely. With regard to informers, Sir, this, I shall grant, may be the case; but if this argument were of any weight with respect to these laws, would it not be of equal weight with respect to every law that grants a reward to informers? And with respect to these laws, there is less

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danger of perjury in informations than with respect to any law of the same nature, because the very fact he swears to, that is to say, the very cloth he swears to, must be laid before the jury, and consequently they will be better able to judge of the truth of what he swears to than they can be, I believe, in any other case whatever. Then as to the importation, the master or purser of the ship, who enters her and her cargo upon oath, unless he be merchant as well as master or purser, can have no occasion, much less a temptation, to make a false oath; because he makes his entry according to the bills of lading he has given; and if a parcel of cambrics or French lawns should be loaded on board his ship, under the name of German or Dutch lawns, it would be no false oath in him to enter them as such, nor could he suffer by their being seized as cambrics or French lawns: the loss would fall only upon the merchant to whom they belonged, and he is not obliged to take any oath, but only to make his claim, and so leave the fact to be determined by a jury upon a trial at common law. Therefore, this argument militates less against these laws than it does against most of our other laws relating to the customs, or any of those laws that give a reward to informers.

But now, Sir, suppose these laws were repealed, do we think that any goods would ever be entered at our custom-house as French cambrics or lawns, unless it was for exportation afterwards? Can we imagine that any merchant would pay an additional duty of 50*l.* per cent. if he had the least ground to expect to get free from it by entering his goods as German or Dutch cambrics or lawns? And would not every merchant have good ground for this expectation, if it be true, as is now so positively alledged, that there is no possibility of distinguishing the one from the other? Therefore, whatever encouragement these laws may give to perjury upon importation, that encouragement will remain, were these laws repealed, and must remain as long as you continue the present additional duties upon all French goods. And this, Sir, will of course furnish a most solid answer to the third argument I shall take notice of, which was, that by these laws the pernicious practice of smuggling has been and must always be increased. It is a certain maxim, Sir, that this practice will always increase or diminish in proportion to the profits to be got by it, that is to say, in proportion to the difference between the amount of the duties to be paid upon a fair entry, and the amount of the risk and expence of a clandestine one. When the latter exceeds the former, no man in his right senses will become a smuggler; but when the former exceeds the latter, every man will become a smuggler, unless prevented by conscience or character; and as every man puts his own value upon his conscience or character, the number of smugglers will increase in exact proportion to this excess. Now by the laws at present under our consideration, no man can say, that the duties have been increased, or that the risk and expence of smuggling have been lessened, and consequently there can be no just ground for saying that smuggling has by them been increased, or that it would be diminished by their repeal. The truth is, that whilst these high duties remain, there will always be smuggling, as it has been proved at our bar, that the risk and expence of smuggling is not near equal to the duties payable upon French cambrics and lawns; and should these laws be now repealed, the practice of smuggling will continue, and will become more or less as the amount of the risk and expence shall increase or diminish.

I have now, Sir, answered all the material arguments for the repeal of these laws, except that of their being prejudicial to our own linen manufacture, and this I must say, I was surprised to hear so much as pretended; for it is certain, that no sort of linen made in any part of the British dominions can be called cambric, and much less French lawn. The least proof of its having been made here at home, would certainly acquit any man that might be prosecuted either for selling or wearing it; and as the wearer or retailer is to be free from any penalty, by declaring from whom he bought it, the prosecution would come at last to the maker, who could not surely be under any difficulty in proving that he was the maker. Therefore, it is evident, that these laws will be extremely beneficial to our linen manufacture; and if continued in force, I make no doubt of their raising a spirit among our linen manufacturers, and encouraging them to make a linen cloth of the same sort with the cambrics and lawns formerly brought from France, and every way as good as any that were ever brought from thence; for it was by the same sort of laws that we got the silk manufacture first established

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in this country, and as I expect the same good effect from the laws now under our consideration, I must be against their being repealed.

Mr. *Nicholas Fazakerly:*

Sir; the gentlemen who have spoke against the repeal of the laws now under our consideration labour under a very great misfortune, for almost every thing they have said happens to be contrary to facts which by our merchants are notoriously known to be true, though some of them may, perhaps, be contested by some of our custom-house officers, who, I am afraid, are but too apt to assert or deny as they think will be most agreeable to their masters; therefore in this House gentlemen should be a little cautious in advancing any fact upon their single authority; and, indeed, some of the facts advanced upon that authority are so inconsistent with common sense, that no unbiassed person can give them any credit. Of this sort is, in my opinion, the first fact which the hon. gentleman who spoke last set out with; for he seemed to insinuate, that by these laws many have been obliged to wear muslins instead of cambrics; whereas, if he had not had a little bias in favour of muslins, he must have seen, that no person could be obliged to do or not to do any thing by a law which cannot be executed. I shall admit that some of our rich and fashionable people have begun to wear Dresden work instead of cambrics, or rather instead of laces; but that this proceeds from choice, not necessity, is evident from the multitudes that continue to wear cambrics, under the denomination of German or Dutch lawns; and consequently, if this fashion continues, it cannot be said to be owing to our continuing these laws in force, nor can we expect that the French will be losers by the continuance of it, and much less by its increase, because the greatest part of this Dresden work will always be the manufacture of France, and will be conveyed to us either in a clandestine manner, or by the way of Dunkirk, without paying any duty, or at least without paying the additional duty on French goods.

In opposition to this it has been said, that the greatest part of this Dresden work may be brought us from Germany, or may at last be made here at home. As to Germany, Sir, it is certain that no goods can be so easily run into this kingdom from Germany as from France; and even as to the Dresden work that may be legally imported, it can never come so cheap from Germany as from France, because of the inconvenience and expence of transporting goods from one part of Germany to any other; for they must pass through the territories of several sovereign princes, and in each must pay some sort of duty; whereas from all parts of France they come without any charge but the carriage, and this too is much safer, more convenient and less expensive than it is in Germany. Nay, as so many ships pass yearly from France to Holland and Hamburgh, I must insist upon it, that Dresden work may be sent from all parts of France, at a less charge than it can be sent from most parts of Germany, to either of those places, and from thence it may be entered here as the manufacture of Holland or Germany; and with respect to all goods from Dunkirk, except French wines, you have been already told, that they pay duty here not as French goods, but as goods of what was formerly called the Spanish Netherlands. Therefore, I must conclude, that almost the whole of the Dresden work consumed in this kingdom will always come originally from France, and consequently that the French would be great gainers by its becoming a general fashion here to wear Dresden work instead of cambrics or lawns; for whilst the French have so many nunneries and such an infinite number of imprisoned nuns, it is altogether chimerical to suppose that we can ever contend with them in the manufacture of laces or Dresden work, because those imprisoned ladies must work for their amusement, and will always sell at a less profit, than poor women can do who must live by the labour of their hands.

It will now be easy, Sir, to explain what the hon. gentleman was pleased to call paradoxical; and indeed if we had effectually prohibited the wear of cambrics and French lawns, without introducing the wear of any other French manufacture in their stead, it would have been paradoxical to say, that the French had been gainers by such a prohibition; but our intended prohibition has been so far from being effectual, that it has only opened a way for introducing cambrics and French lawns at a less expence than they could have been before introduced; and at the same time we have introduced the wear of a French manufacture, which costs us more than their cambrics and lawns ever did. Is there any paradox, Sir, in saying that

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they have been gainers by a prohibition attended with such consequences? And as the laws now proposed to be repealed have certainly been attended with both these conseqnences, it is, in my opinion, ridiculous to suppose, that the French have not been gainers by these laws, or that they will not continue to be gainers as long as these laws continue in force; for the increase of the consumption of cambrics and lawns among the lower sort of people is certainly owing to their being more easily smuggled into this kingdom, or imported for a less duty, than they could have been before these laws were passed; and what may have contributed something to this increase, is the old proverb, 'nitimur in vetitum,' which holds true, and I hope will always hold true of the people of this kingdom: they may be led, but they are not to be drawn; and therefore before you make any law, especially a prohibitory one, you should first persuade the people that it is right; for unless you do so, you will find it very difficult to carry any law into execution, much more the laws now under consideration, which are really in themselves, and always must be absolutely inexecutable.

I say, Sir, absolutely inexecutable, for reason must tell us without any proof, that no sort of linen cloth can be made in one country, but what may be so exactly imitated in another as to render it impossible to distinguish; and this even the hon. gentleman who spoke last in a manner confessed, when he came to speak of our home manufacture; for he made no doubt but that our own manufacturers might be encouraged to make a linen cloth of the same sort with the cambrics and lawns formerly brought from France, and every way as good as any that was ever brought from thence. Now, if the cloth be of the same sort and every way as good, I should be glad the hon. gentleman would inform us, how it would be possible to distinguish any other way than by the different method of doing up, or by some mark put upon the cloth at the place of manufacture; and if there should be no difference as to either of these, the distinguishing the one from the other would then be absolutely impossible. If, then, this may hereafter be done at home, why may it not now be done in Germany, Holland, or the Austrian Netherlands? And if such a thing can possibly be done, I must say he would be a bold swearer, that would swear a piece of cloth entered as such, to be a French lawn. Then, with respect to cambrics, what has always been called cambric must be a sort of cloth distinguishable from every sort of lawn, or it must not: if it be, then our home manufacture of that sort of cloth is absolutely by these laws prohibited, which surely ought never in any case to be done; and if it be not distinguishable from every sort of German, Dutch, or Flemish lawn, then these laws are inexecutable with respect to cambrics as well as lawns. What, then, have we done by these laws? We have abolished the late additional duty upon all cambrics, and have put the French in a way of getting rid of the additional French duties both upon their cambrics and lawns. Is not this a good reason, ought it not to be a prevailing reason with every Englishman, for repealing the laws that have had such mischievous effects? Can we suppose that they will ever cease to have these effects, or that they will ever have any good effect, as they have now continued for near six years without so much as one conviction, though several times attempted, and though the law has been daily by multitudes transgressed?

Sir, the bad success of all the prosecutions that have been hitherto attempted, is not owing to any perverse humour in the people, but to the reason I have mentioned, that no sort of linen cloth can be made in one country which may not be exactly imitated in another; and therefore no honest jury can give any credit to an informer who, without any knowledge where the cloth was made, swears to its being a cambric or a French lawn. It is, in truth, swearing to nothing but his opinion; and the verdict of a jury is not surely to be founded upon the opinion of any witness, especially in a case where the best judge is liable to be mistaken, and consequently where no honest man will ever positively declare his opinion upon oath. This leads me to consider the perjuries that may be occasioned by these laws; and indeed as to informers, I believe, there is no great danger, because there will never, I believe, be a conviction, and consequently no encouragement for that sort of vermin; but as to masters of ships trading to the Netherlands or Hamburgh, it is certain that many of them bring over little adventures for their own account, and I am afraid, that some of them will enter such adventures as German, Dutch or Flemish lawns, though they know them to be cambrics or French lawns; therefore it cannot be de-

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nied but that these laws will occasion an increase of the crime of perjury, which already abounds too much amongst us; and as no benefit can be expected from them, this alone is a sufficient cause for their being repealed. I shall indeed grant, that this evil will in part continue as long as the French duties, or the late additional duty on all cambrics is continued; but as these duties, if raised as strictly as possible, would give great encouragement to our home manufacture, we may soon be able to put an end to this evil by supplying ourselves, which we cannot expect whilst these laws continue in force, as I shall presently make appear; but must first take some notice of what the hon. gentleman was pleased to say about smuggling.

Upon this head, Sir, I shall agree with the hon. gentleman, that with regard to goods not prohibited to be imported, the practice of smuggling will always be in proportion to the difference between the amount of the duties payable upon a fair entry, and the amount of the risk and expence of a clandestine entry; but when you prohibit the importation of any commodity which the people in general are fond of, you render smuggling absolutely necessary; and what is still worse, you throw the favour of the people on the side of the smuggler so much, that they are all ready to assist him in running, concealing, and vending his smuggled goods, by which means you render smuggling more safe and less expensive than it would otherwise be, and the smuggler, instead of suffering in his character, becomes the favourite of the people, because they look upon him as a man who runs a risk in order to supply them with what they could not otherwise have, and what they cannot well be without. Now this is the very case with respect to your prohibition of cambrics: the people find them more convenient and less expensive than any thing they can have in their stead: they submitted to a duty which they looked on as necessary for promoting our own manufacture; but they cannot bear a prohibition, and by attempting it, you have made them greater friends to smugglers than ever they were before, which has lessened the amount of the risk and expence of smuggling; consequently according to the hon. gentleman's own reasoning, these laws must have increased the practice of smuggling.

I now at last come, Sir, to consider our home manufacture; for that there was a manufacture both of cambrics and lawns set up amongst us before these laws were enacted, is very certain; and whatever was then or may now be pretended, I am convinced, that these laws were intended by the original contrivers, not only to knock our own manufacture on the head, but to put an end to the wearing of any thing that looked like cambric or lawn in this kingdom, in order to introduce in their stead the wear of muslins, for the benefit of our East India company. I do not say, Sir, that this was the design of those that appeared openly as the patrons of these laws, or that the gentlemen who now appear in defence of them have any such design; but I believe, there were some people behind the curtain, who, taking advantage of their laudable zeal against France, persuaded them that these laws would greatly lessen the French trade, and this, I believe, is still the cause of their being so zealously supported; for I will say, that if our juries, or justices of the peace, had been as ready to convict, as multitudes of people would have been ready to inform, had they met with any encouragement, no person could have worn any thing that looked like cambric or lawn, even though he had been certain of its having been manufactured in Britain or Ireland, because he would have been daily liable to an information, which would have put him to great trouble and expence, and even at last he must have depended upon the opinion of the justices at their quarter sessions, or the verdict of a jury, for his acquittal; and by every piece of the same sort of apparel he wore, he would have lain liable to a new information. Therefore we must suppose, that in such circumstances no person would have ventured to have worn any thing that looked like cambric or French lawn, and consequently muslins in their stead must have become the general wear.

This, Sir, was the consequence expected by the original contrivers of these laws; and this would be the consequence, should convictions upon them become frequent, which is what these contrivers hope for, and will always aim at, whilst these laws continue in force. This is what makes them so zealous for the continuance of these laws; and if they should ever succeed, it would at once put an end to the wear even of any home-made linen cloth of the same sort with cambrics or French lawns; for can we suppose that any gentleman or lady remembers or can ever re-

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member from what milliner or linen-draper they bought every part of their linen apparel, so exactly as to swear to it, and unless they could do this, they could neither free themselves from the prosecution, nor prove that the cloth was home-made. Therefore, whilst these laws continue, our manufacturers must always think themselves in danger of having their manufacture at once knocked on the head, and whilst they think so, can we expect that they will proceed with spirit? Can we expect that any manufacturer of such sort of linen cloth will put himself to a great expence in bringing his manufacture to perfection?

Sir, the bad effect of these laws is in this respect so apparent, that no gentleman of this House, who considers them in this light, can balance a moment about the necessity of having them repealed; and I am really surprised to hear the silk manufacture mentioned upon this occasion. Did we ever prohibit the wear of any sort of silk made here at home, either by name or in effect? Did we ever prohibit the wear of any foreign silks but those from the East Indies? And this we ventured to do, only because they could be so easily distinguished that the prohibition could not hurt our own manufacture. But during the war in queen Anne's time, though we prohibited the importation of any French goods, yet we did not go so far as to prohibit the wear either of their silks or linen; and the reason was, because they could not be distinguished from those of our own manufacture. It was not therefore by prohibiting the wear of foreign silks, but by duties upon them and bounties upon our own, that we established our silk manufacture; and if we had continued to pursue the same course with respect to cambrics, the manufacture of them might have been established by this time; for though we cannot contend with the French in the manufacture of laces or Dresden work, or in any manufacture carried on by their immured nuns, yet the success of our silk and linen manufactures is a proof, that we may contend with them in any manufacture carried on by our spinsters and weavers. Let us therefore by repealing these laws get out of the bye-road which we have been artfully led into, and return to that which experience has shewn to be the high-road to success in every new manufacture.

Upon the question being put, it was carried in the negative.

Debate in the Commons on the Enquiry into the Management of the last Lottery.] December 4. It was ordered by the Commons, that an account be laid before the House of the contributors to the Lottery directed by an act of parliament, passed in the last session, intitled, "An Act for purchasing of the Museum or Collection of sir Hans Sloane, &c."* And in pursu-

* "Amongst the other vices, in which the people of England were plunged at this time, an universal spirit of gaming, which had seized all ranks and degrees of people, was not the least. Mr. Pelham had often declared himself on that account, to be an avowed enemy to lotteries, but in cases of absolute necessity. In the act for the lottery for purchasing sir Hans Sloane's curiosities, the legislature had been at unusual pains to guard against the pernicious consequences of one person engrossing a great number of tickets, by which he was able to put what price he pleased upon them, to the great detriment of the public, through their insatiable passion for gaming. A provision, therefore, was inserted in that act, that no person should be allowed to contribute towards the lottery for more than twenty tickets. Another provision was likewise inserted, for keeping the subscription open to the 26th of October from the 14th of June, that foreigners might have an opportunity of purchasing tickets. Notwithstanding all these precautions, the subscription was declared to be full in a few hours after it was opened, and the rise of the tickets, above the true value, was as high as ever. The notoriety of all this was such, that Mr. Cooke complained of it in the House of Commons, and moved that the book, entitled, 'An account of the contributors to the lottery, 'directed by an act of the last session of par-'liament,' be referred to the consideration of a committee. Though this motion met with some opposition from sir William Yonge and others, yet it was carried in the affirmative without a division, and a committee was appointed to examine the book, and with power to send for persons, papers, and records. During this examination, it appeared that Mr. Leheup, one of the receivers of the contributions to the said lottery, had not, as such, conformed himself strictly to the terms required by the act of parliament, and amongst other contraventions of it, that he had sold to one person, under names, which he knew to be fictitious, between two and three hundred tickets. Upon this, the committee came to no fewer than eighteen Resolutions against Mr. Leheup, and voted him guilty of a direct violation of the Lottery Act, and a breach of trust, and that an humble Address be presented to his majesty, that he will be graciously pleased to direct his attorney-general to prosecute, in the most effectual manner, the said Mr. Leheup for his said offences. In consequence of those resolutions, they ordered first, That the said

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ance of this order, there was presented to the House, on the 12th, a book, intitled, 'An Account of the contributors to the Lottery directed by the said Act.' The title of which book was then read, and the book ordered to lie upon the table, to be perused by the members of the House. Next day, a clause in the said Act being read, it was ordered, that the managers and directors of the said Lottery, should lay before the House, the Account (delivered to them by the receivers appointed in pursuance of the said Act) of all sums of money accrued or come to the hands of the said receivers, or any of them respectively. And another clause in the said Act being read, it was ordered, that the receivers of the sums contributed to the said Lottery, should lay before the House, an Account of such contributors, who paid down a proportion of their consideration money, and did not pay the remaining part before the 26th of October last, with an Account of the sums so received, and what was become thereof, and also an Account of the tickets disposed of in consequence of such contributors default, distinguishing by, and to whom sold, and when, and for what price. These Accounts were all accordingly laid before the House the next day; and the titles being read, were ordered to lie on the table, to be perused by the members. The House being thus possessed of the proper materials, a motion was the same day made by Mr. George Cooke; That the said Book be referred to the consideration of a committee, upon which motion the following Debate ensued:*

Mr. *George Cooke:*

Sir; as no human wisdom can contrive a constitution or form of government which is not attended with some inconvenience, so our limited form of government, though the most perfect, I believe, that was ever invented, is liable to this inconvenience, that new sorts of crimes may be committed, or the best penned regulation may be evaded, so artfully as to render it impossible for our magistrates to prosecute or punish the offender, by the common methods of proceeding in any of our inferior courts of judicature; and they are by our constitution most wisely restrained from proceeding in any extraordinary or arbitrary manner. In all such cases the interposition of parliament becomes necessary, and a parliamentary enquiry into the affair, not only may, but ought to be set on foot, when the offence is of such a nature as may by a repetition be of great prejudice to the public; the view of which enquiry may either be to punish the offender, or to prevent a repetition of the offence by some new regulation; and which of these shall be the event can never be determined until after a strict and impartial enquiry has been made; for it may then appear that both are become absolutely necessary.

What is properly called stock-jobbing, Sir, is a public evil which has been long and justly complained of. Not many years ago it brought ruin upon many families, and the nation itself to the brink of destruction; and it is an evil which has almost always been felt, when the public found it necessary to establish a lottery. Upon every such occasion all the delusive arts of Change-Alley have been put in practice, either to depreciate the tickets or to buoy up their price monstrously above the true value: when the terms were very advantageous, or the sum so small as not thought to be sufficient to answer the demand for tickets, then the common practice has been for a combination of stock-jobbers by their interest to fill up at once the whole subscription, and after having thus ingrossed the whole commodity, and set their under agents at work to make it be generally believed, that tickets would soon rise to double or at least a great deal above the price set upon them by the legislature, they then sell them to the deluded people at what profit they please to exact, which not only propagates a spirit of gaming and stock-jobbing among the people, but in the end brings a reproach upon this way of raising money for the public service.

This art, Sir, had been so often practised, that it was last winter foreseen, and the legislature resolved to guard as much as possible against it. For this purpose, in the clause of the act for establishing the last lottery, which empowers all persons, natives or foreigners, to contribute towards

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Address be presented to his majesty by such members of this House, as are of his majesty's most honourable privy-council. Secondly, That the said Resolutions be humbly laid before his majesty at the same time with the Address. The event of all was, that Mr. Lebeup, being prosecuted by the attorney-general in the court of King's-bench, was fined 1,000*l.* which he immediately paid." Tindal.

* From the London Magazine.

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that lottery, the sum of 3*l.* or divers entire sums of 3*l.* these words, "so as no person shall be allowed to contribute more than twenty such entire sums," were inserted. But what signify laws or regulations, if the very persons employed to carry them into execution shall dare not only wilfully, but openly and avowedly, to transgress or evade them? The meaning of these words was so plain, that it could not be misunderstood. Every man must have seen, that the intention of the legislature was to prevent that method of ingrossing which had been so frequently practised, and consequently that the persons employed to receive subscriptions should take all possible care not to allow any person to subscribe for more than twenty tickets for himself or for his own benefit; but so far were they, or at least some of them, from pursuing the intention, or observing the direction of the legislature, that they allowed their favourites to subscribe for as many tickets as they pleased, provided they gave them a name, true or feigned, for every twenty tickets they subscribed for: nay, I believe, it will come out in proof, that one of these receivers not only allowed of this evasion, but instructed some of his correspondents how they might evade the act; and, perhaps, it may likewise appear, that he took evasive methods to subscribe for, or to dispose of great numbers of tickets for his own particular benefit.

But, Sir, whatever may appear upon enquiry, it is notoriously known, that the intention of the legislature was entirely defeated, that the tickets of this last lottery were as much ingrossed as those of any former lottery ever were, and that some people found means, or were allowed to subscribe for thousands of tickets, which they afterwards sold in Change Alley at a most extravagant premium. Thus, Sir, the subscription to the lottery, which was designed by the legislature to be open and free for every one that pleased to subscribe for 20 tickets or under, became a mere job for favourites; and instead of being kept open until the 25th of July, or indeed until the 26th of October, which long time was allowed by the legislature on purpose that foreigners who live abroad, and natives who live at a distance from London, might have an opportunity to become subscribers, the subscription was declared to be full, and the books were shut in less than two days after they were opened according to the advertisement: I may really say in less than six hours, if the terms of that advertisement had been duly observed; for according to that advertisement, the subscription books were not to have been opened until June 14, at 9 in the morning, and they were to have continued open only from nine to one on that and each following day until the subscription was full; and it is notoriously known, that the very next day, before 11 o'clock, the subscription was declared to be full, and the books shut; therefore, we cannot suppose that the terms of the act of parliament and the advertisement in pursuance thereof was complied with; for it is impossible to suppose that 5,000 real names of persons could have been given in, and 5,000 receipts filled up in six hours time.

By this illegal and fraudulent management, Sir, the lottery subscription was, as I have said, made a mere job for the benefit of the receivers and their favourites, who ingrossed most of the tickets to themselves, and by that means extorted, I may reckon, at least 40,000*l.* from the people, a more than sufficient profit surely for the advance of 100,000*l.*; and yet if we consider, that the tickets rose in two days to 10*s.* and in two or three days more to 16*s.* premium, this is the least sum at which we can reckon the profit made by the ingrossers, as it is but at 8*s.* per ticket one with another. But this, Sir, was not the only bad consequence of this management: these ingrossers, by their usual arts, propagated such a spirit of gaming among the people, that many merchants and tradesmen bought large numbers of tickets of them at a high premium, in hopes to get advantage by the rise, but were so much disappointed, that they were at last obliged to sell them a great deal under par, by which they lost considerable sums of money, and some of them were utterly undone. This fraudulent management has therefore been extremely prejudicial to the public, and it will certainly be repeated upon every future occasion, if no proper methods be taken by parliament to prevent it; for though it was a plain, and, as is generally supposed, with respect to one of the receivers at least, a fraudulent evasion of an act of parliament, yet it can neither be punished nor prevented by any of our inferior courts.

I have said, Sir, that by the public voice one of the receivers is particularly charged with having acted in a fraudulent manner: indeed, they are all in some degree loaded

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with having acted in concert with the ingrossers, and with evading the law on purpose to serve themselves or their friends. This makes an inquiry necessary upon another account: that the innocent, if any are so, may be distinguished from the guilty. I hope they will all appear to be innocent: I hope it will appear, that none of them acted with any fraudulent design, but that they were imposed on and misled by the artful contrivances of the ingrossers. But whatever may be the issue of the enquiry, it is, I think, incumbent upon us to enquire into a management by which the public has been so much injured. We ought to enquire, if it were with no other view but to justify the conduct of our own officers, if they are innocent; and if they are guilty, we are bound to detect and punish them, not only in justice to the public, but in vindication of our own honour, as these receivers will be considered as our officers, and as acting by our authority. To all these, Sir, I must add another reason for enquiring, which is the knowledge we may thereby acquire, how to prevent the like practice in case the public should ever hereafter have occasion to establish a lottery: for unless this practice can be effectually prevented, let the necessity of the public be never so great, I shall always be against supplying it by a lottery; because it will always prove to be a putting it in the power of the worst set of men amongst us, to plunder the people of a crown or 10*s.* for every 20*s.* we load them with; and for this purpose to propagate a spirit of that sort of gaming called stock-jobbing in the nation, which of all evil spirits is the very worst that can possess a trading industrious people, as idleness is its constant attendant, luxury and extravagance its inseparable companions, and public ruin its never failing follower.

After what I have said, Sir, I hope I shall have the good fortune to meet with the unanimous concurrence of this House in the motion I am to conclude with, which is, "That the Book presented to the House upon Wednesday last, intituled, An Account of the Contributors to the Lottery, directed by an act of parliament passed in the last session of parliament, intituled, An Act for purchasing of the museum or collection of sir Hans Sloane, and the Harleian collection of manuscripts; and for providing one general repository for the better reception and more convenient use of the said collections, and of the Cottonian library, and the additions thereto; be referred to the consideration of a Committee."

Sir *William Yonge:*

Sir; I shall readily agree with the hon. gentleman who made you this motion, in the good opinion he has of our constitution, and that from thence a necessity may sometimes, though not frequently, arise, for the parliament to enquire into some sort of crimes, and punish some sort of criminals. An extraordinary, and indeed, an absolute power of this kind is, I shall grant, by our constitution lodged in the legislature; but on the other hand, it must be granted, that nothing can more effectually dissolve our constitution, than a too frequent use of this power; and as I am a great lover, as well as admirer of our present happy constitution, I have therefore always been against this House setting on foot an enquiry into any affair unless it was a matter of the utmost importance to the nation, and the persons concerned of the highest rank. As the supreme power of this kingdom is in part lodged in our hands, we should never think of interposing, unless when there is, as Horace says, a "dignus vindice nodus;" and I have observed, that we never did gain much credit by enquiring into any affair of a less important nature; for our enquiry generally either ends without producing any effect, or it is carried on with such heat and violence as becomes oppressive upon some, and terrible to all, whether innocent or guilty. I am old enough to remember the parliamentary enquiry into the conduct of the South-Sea directors in the year 1720; and as I was then in the House, I was a witness to, though thank God! not a sharer in the extraordinary and unconstitutional proceedings at that time. I remember that one day, during these proccedings, a member came into the House from 'Change-Alley, and informed us, that three brokers, whom he named, had that morning sold out a large quantity of South-Sea stock; on which, though the fact, if true, could in no shape be called a crime, yet the majority of the House flew into such a flame, that without examining one witness to the fact, or ordering the persons accused to attend, the House immediately ordered all the three to be taken into custody, and messengers were that instant dispatched to seize them.

I hope, Sir, I shall never again see such proceedings; but as I am always in fear

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of it, I shall therefore always be against our enquiring into any affair of a private nature, or where none but persons of low rank have been any way concerned; and indeed our interposing in any such affair is inconsistent with the spirit of our constitution, which never admits of any absolute and arbitrary proceedings, except when the public safety is evidently at stake: and this it can never be when the crime, if any has been committed, may be tried, and the criminals sufficiently punished, by the usual course of the common law. When, indeed, the supposed criminal is of so high a rank that there is danger of his being able, by his power or influence, to overawe and defeat any trial at common law, or when the crime is of such a nature, or has been so artfully committed, that no sufficient discovery or adequate punishment can be expected from a prosecution before any inferior court, and is at the same time so heinous as to endanger the public safety, the high court of parliament may and ought in every such case to interpose. We then interpose with dignity, our interposition is generally attended with success, and it is one of the chief preservatives of our constitution.

But in the case now before us, Sir, can any thing like this be pretended? The supposed criminals are all of so inferior a rank, that there is not the least danger of their being able to over-awe or defeat any trial at common-law; and the crime itself which they are supposed to have been guilty of, is of such a nature, that the public safety can be no way concerned either in their punishment or impunity. I shall join with the hon. gentleman in every thing he has said about that sort of gaming called stock-jobbing; but it has long since been in a great measure abolished by a standing law, for which the nation is obliged to an hon. gentleman, who in that as well as many other respects has done great service to his country. Perhaps a little of this sort of gaming may still remain, and it will always remain as long as we have any such thing as public securities amongst us: for you would not, surely, make a law against any man's disposing of his property in the public funds, in order to prevent his engaging in stock-jobbing, no more than you would make a law against a man's disposing of the money in his pocket, in order to prevent his going to a gaming table. By the law now in being all contracts for liberty to put upon, deliver, accept, or refuse any public security, are declared to be void, and the parties contracting made liable to a penalty of 500*l*. Nay, the persons concerned in negociating such contracts are made liable to high penalties. This is really, I think, as far as you can go, and whilst this act remains in force, which, I hope, will be for ever, we can have no reason to apprehend any great mischief from stock-jobbing.

Thus, Sir, neither the supposed criminals, nor the supposed crime can be deemed worthy of the interposition of parliament; and if the receivers, or any one of them, maliciously, or with a mercenary and corrupt view, acted contrary to the directions of the act of parliament, it was, in my opinion, a misdemeanor, for which they may be prosecuted and punished at common law. Nay, I believe, the affair may be enquired into, and an adequate punishment inflicted by the three right hon. persons who were empowered by the act to appoint them; for as all the receivers are possessed of lucrative posts under the government, a dismission from the public service would, in my opinion, be an adequate punishment for any offence they could as receivers commit. Besides, Sir, we know that in this House we are not properly judges of the breach of any act of parliament, nor have we by ourselves alone a power to punish any offence, except that of a breach of privilege; all we can do, after we have spent never so much time in an enquiry, is to impeach those we think guilty, or to order in and pass a Bill of pains and penalties, which last must have the concurrence of the crown as well as the other House, before it can have any effect. Surely, no gentleman designs that in so trifling a case either of these methods of punishment should be the result of the enquiry proposed; and there is no other method of punishment we can take, which will not expose our enquiry to the contempt of the people without doors.

The truth is, Sir, I am afraid, that an enquiry into this affair can be attended with no benefit to the public, or to the people who think they have suffered. Perhaps, in taking in the subscription the receivers did not exactly pursue the directions of the act of parliament: but it is possible to suppose, that if in any respect they departed from them, they did it not with a corrupt intent, but from a zeal to serve the public, by encouraging people to subscribe; for that there was some danger of the lottery's not filling, I be-

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lieve, every gentleman will allow. Therefore, if we go into an enquiry, I think, we can proceed neither to punishment nor censure, unless something very fraudulent and corrupt should appear; because a fraudulent or malicious design is never to be presumed, if an honest and laudable one can be suggested with any sort of probability, which I am very apt to suppose will be the case with regard to the affair now under consideration; and if this should come out to be the case, I am sure we cannot so much as censure any of these receivers; but will this satisfy those who now complain of their conduct? No gentleman can think so who considers that they are generally such as were disappointed of the tickets they expected, by the subscription being so soon full, or such as lost money by their too sanguine hopes that the price of tickets would rise even above that extravagant premium for which they were once sold; and nothing will satisfy such people but the punishment of some of the receivers, whether guilty or innocent; from whence I foresee, that by the enquiry proposed we shall neither be able to do any service to the public, nor to gain any credit to ourselves.

As to our entering upon an enquiry, Sir, in order to prevent such practices for the future: what practices are we to prevent? Are we to prevent people crowding an open and public subscription, when they expect to get by it? The thing is impossible. Every public subscription will be crowded, unless it be such a one as no man expects to get by; and then I am sure it will never fill. Therefore, I hope, that whilst I live, I shall see every public subscription in this country crowded as much as the last was. Are we to prevent a rich man's getting as large a share of the subscriptions as he inclines to have, and has money to pay for? The thing is equally impossible: if he cannot get it in his own name, he will get it in the name of trustees. Are we to prevent a man's selling his subscription at an advanced price, if he can get it? The restraint would be unjust, or at least it would be very imprudent, when the public has immediate occasion for the money to be raised by the subscription. Therefore we cannot expect, that any view of this kind can be answered by the enquiry proposed, nor can I suggest to myself any public mischief from any of these practices, as that sort of stock-jobbing which can only be called gaming is now entirely abolished; for to think of preventing foolish men giving sometimes too high a price for lottery tickets, public funds, or any commodity whatever, would be ridiculous. If a man be deceived and fraudulently induced to do so, the law as it now stands will give him relief; but if he freely and with his eyes open does so, he ought to suffer for his folly. In short, Sir, I can neither see any occasion for the parliamentary enquiry proposed, nor any use that can be made of it; and therefore I must be against the motion.

Mr. *Nicholas Fazakerly:*

Sir; although the enquiry proposed by my hon. friend is, in my opinion, not only reasonable but necessary, yet I foresaw and expected that it would be opposed; for both from history and experience we may learn, that parliamentary enquiries into the conduct of any officers employed under the crown, high or low, have always been opposed by ministers and their favourites; and if at any time they found themselves forced to submit, they have too often found means to defeat, in a great measure, the effect of the enquiry. This was the case with respect to the enquiry mentioned by the hon. gentleman who spoke last: a most wicked and flagrant conspiracy had been carried on, under colour of an act of parliament, for cheating the people of this kingdom, by which many thousands, and amongst them some of our best families, had been undone; and there was great reason to believe, that some in the highest stations had been concerned in this conspiracy. Could the parliament sit unconcerned at such a public calamity? Could any sort of proceedings be too violent against the contrivers or promoters of such monstrous wickedness? The clamour was so loud and so universal that our then ministers found themselves under a necessity to submit to an enquiry; but by sending one of the chief agents out of the kingdom, and by confounding the most innocent with the most guilty, they prevented that effect of the enquiry which it otherwise might and ought to have had; for the chief perpetrators of that public villainy most highly deserved a capital punishment. Yet even upon that occasion the danger of making parliamentary enquiries or prosecutions too frequent, and the breach that might thereby be made in our constitution, were often rung loud in our ears; for upon all such occasions those who secretly intend to screen the guilty, never fail to confound

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enquiries and prosecutions together, though they are perfectly distinct in their nature, and gentlemen will, I hope, upon this occasion attend carefully to the distinction.

I shall grant, Sir, that a parliamentary prosecution, either by bill or impeachment, ought never to be carried on, but when it is evident that the criminal cannot be duly punished by any prosecution at common law; but a parliamentary enquiry may often be necessary, in order to procure a prosecution at common law, and sometimes in order to discover whether any crime has been committed or no, or what sort of crime it is that has been committed; and therefore I am convinced, that the frequency of such enquiries can never injure our constitution, but on the contrary will always contribute towards preserving it in its natural strength and vigour: nay, by our constitution it is the particular business of this House to enquire into every public grievance: we are the grand inquest of the nation; and as such, when there is but a suspicion that the public or the people have been injured or defrauded, we ought, we are in duty bound to enquire into the affair, and after enquiring we are then to determine what we are next to do. If we have upon that enquiry discovered that some flagrant crime has been committed, we are next to consider whether the criminal can be duly punished by a prosecution at common law; for if it appears that he cannot, we are then bound to proceed against him by impeachment, or by bill of pains and penalties. On the other hand, if there appears but a probability, that he may be convicted and sufficiently punished by a prosecution at common law, we ought to address his majesty to order his attorney general to prosecute; for I suppose every gentleman knows, that in all prosecutions at common law there must be a prosecutor, and that his majesty cannot order his attorney general to prosecute, until a discovery has been made by the Address of this House, the presentment of a grand jury, or the oath of some informer, that such a crime or offence has been committed.

Now, Sir, to apply what I have said to the affair at present under our consideration, the very argument made use of by the hon. gentleman who spoke last against our going into the enquiry proposed, is one of the strongest arguments that can be urged for our doing so. He was pleased to suggest, that if the receivers for the last lottery any way departed from the directions of the act of parliament, and of those who appointed them, it may be supposed, that they did so without any fraudulent intent, but with a laudable design to serve the public, by encouraging people to come in and fill up the subscription: and indeed with regard to some of them, I am apt to believe there is good ground for this supposition. But this, Sir, is my chief reason for the enquiry proposed. It is notoriously known, that the grievance which the legislature intended to prevent has, by an evasion of the law, been brought upon the nation by some persons or other. The grievance I mean is that of ingrossing a great number of the tickets, and then raising a spirit of gaming among the people, in order to extort money from them by way of premium upon the sale. This had been so often practised upon former lotteries, that the legislature resolved to prevent it upon the last, and for that purpose enacted, that no person should be allowed to subscribe for more than 20 tickets, and that the subscription should be open and free for every person that inclined to subscribe for that number. Therefore if the receivers took any methods to prevent the subscription being open and free, if they knowingly allowed any man to subscribe, or if any man did subscribe, for more than 20 tickets, it was a breach of the act, and consequently an offence; and if it was done with a fraudulent intent, to give a preference to friends, or to make a profit by the sale of tickets, it ought to be punished. But that this was done is manifest, from the thousands that were sold in Change-Alley soon after the subscription books were shut, and the high premium they were sold for.

It is therefore evident, Sir, that an offence, and a fraudulent offence too, has been committed; and it is our business, it is our duty to discover, if we can, by whom. This we can only do by the enquiry proposed, and it is proposed in very proper terms, as it leaves room for our enquiring into the conduct of the subscribers, as well as the conduct of the receivers of the subscription. The offence is manifest, and that the people were thereby cheated out of large sums of money is notorious: if it were as manifest that all the receivers were concerned in this public fraud, or any way privy to the same, there would be no occasion for an enquiry: we might and ought to proceed directly to address his majesty to order them to be prosecuted; but as it is probable that some

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of them had no concern in it, and possible that none of them had, we must go into an enquiry, in order to distinguish the innocent from the guilty: when we have done this, I hope, we shall not dispense justice by the lump, as was done in the year 1720, but acquit the innocent, and then make our vengeance fall with its full weight upon him or them that shall appear to be guilty.

As it is so uncertain, Sir, who were the persons guilty of this fraudulent breach of an act of parliament and this malicious and deceitful imposition upon the public, I am really surprised to hear any gentleman suppose, that the guilty can be prosecuted or punished by any sort of proceeding at common law. There is no judge or magistrate, nor any court but the high court of parliament, that has power to make such an enquiry as may tend to discover who were the persons guilty; and should they be able to discover it, there is some room to doubt whether they have power to inflict an adequate punishment. I am equally surprised to hear it supposed, that those who were impowered to appoint the receivers, have any proper authority to make an effectual enquiry into their conduct. They had, indeed, a power to give orders, rules and directions to the managers, directors, and receivers of the lottery, and the managers, directors, and receivers were obliged to observe those orders, rules, and directions; but they have no power to enquire whether they did so or not, much less to punish them if they did not, and still less power, if possible, to call any witnesses before them, in order to examine whether the terms of the act, or the directions they had given, were duly complied with. Nay, the bond which they were impowered to take from the receivers, was not to be for a due performance of the terms of the act, or of the directions they should give, but only for the due answering and paying of the monies which the receivers should jointly or severally receive; so that even this bond cannot be deemed forfeited, or put in suit, if the monies have been duly answered and paid, which no one doubts but that they have.

I have said, Sir, that if the receivers did transgress the directions of the act, by knowingly admitting any person to subscribe for more than 20 tickets for his own benefit, it is possible to suppose, that they were induced to do so, by an apprehension that the subscription could not otherwise be filled up; but really such a supposition is not very probable, as it is well known, that before the subscription books were opened, the lottery receipts sold at a premium in Change-Alley, so that no reasonable man could have any ground for such an apprehension. How these receipts came to make their appearance so early in Change-Alley, will of course come under the enquiry proposed; for if the receivers received any money, and gave receipts in a private manner, previous to the time appointed for opening the subscription books, it was acting contrary to the design of the act of parliament, which, if for any considerable sum, will have a very bad appearance, as it must be allowed to be a partial, and may have been a mercenary and corrupt sort of conduct, which it is so far from being in the power of any inferior court to detect, that, I fear, it will hardly be in the power of parliament.

Upon many accounts therefore, Sir, we must conclude, that the crime which has been committed, though in its nature a very heinous one, can neither be prosecuted nor adequately punished by means of any sort of prosecution at common law; and as it is very certain that a crime has been committed, and the public, as well as many private persons, very much injured, a parliamentary enquiry is become absolutely necessary. By this means, and by this alone, we may be able to punish the guilty, as well as justify, and wipe off all scandal from, the innocent; and we shall have this farther advantage, that we may from thence learn how to prevent any such practices in time to come; for whatever the hon. gentleman may pretend, I am far from thinking the thing impossible: even I, who am very little versed in public subscriptions, may be able to propose a method, in case we should ever have occasion for another, which, I hope, we never shall, whereby it will be rendered impossible to give an undue preference to ministers, clerks of offices, or either of their favourites; and equally impossible for a set of rich stock-jobbers to engross the whole, or the greatest part of the subscription. Therefore I shall most heartily join with my hon. friend in his motion.

Mr. *Henry Fox:*

Sir; when I rise up to oppose or rather to wave the motion now under your consideration, I hope no gentleman will be so uncharitable as to suppose, that I am for screening the guilty, if there be any

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such, or against their being punished in any such manner as may be consistent with our constitution. On the contrary, if it should appear, that any of the clerks appointed to be the receivers of the subscriptions to the last lottery have, with a corrupt and avaricious view, confederated with others to confine the subscription, which the legislature designed should be open and free, I think they deserve, and I hope they will meet with, a very severe punishment; but for that purpose I cannot think a parliamentary prosecution necessary, and consequently I cannot think it consistent with our constitution. The only two ends of a parliamentary enquiry which I have ever heard of, or can suppose, is to make it the foundation of an impeachment, or of a Bill of pains and penalties; and neither of these can be necessary upon the present occasion, nor do I believe that either is designed even by those who are the warmest advocates for this motion.

We all know, Sir, that this House by itself alone can neither judge nor punish. It is absolutely inconsistent with our constitution for us to attempt it: we never did attempt it but in that parliament which began in November 1640; and every one knows, that it not only brought great misery upon the nation, but ended in the total overthrow of our constitution, and the establishment of the very worst sort of arbitrary power. Therefore I hope never again to hear of the word delinquent, or any other new-coined term, that may furnish us with a pretence to judge of and punish offenders of any kind. Even a Bill of pains and penalties has always been deemed a sort of encroachment upon our constitution; and therefore such a method of trying and punishing should never be made use of, but when the public safety is in the utmost danger, and cannot otherwise be effectually secured; for should it once become frequent and common to take this method for detecting and punishing every supposed offence, by a factious party in the nation it might be made a handle for abolishing the monarchical part of our constitution, or by an ambitious and enterprizing prince, supported by a venal majority in this House, it might be made a handle for oppressing and ruining every man who dared to stand up for the liberties and privileges of the people. For this reason I cannot suppose it to be the design of any gentleman in this House, that a Bill of pains and penalties should be the consequence of the enquiry proposed, however heinous the crime may appear to be, which the receivers of the subscription for the last lottery, or any one or more of them, have been guilty of; for I am very sure, that it could not be of such a nature as to endanger the public safety, nor can the public safety be exposed to the least danger, should their crime remain unpunished as well as uninquired into. And much less can I suppose, that an impeachment is designed to be the consequence of the enquiry proposed; for no gentleman, surely, can suppose, that it would be consistent with the dignity of a British House of Commons to appear at the bar of the other House as the prosecutors of a little under clerk in one of our public offices.

Thus, Sir, as neither a Bill of pains and penalties nor an impeachment can be the end proposed by the motion now made to us, I can see no reason for our agreeing to it, nor can I see any use that can be made of a parliamentary enquiry, and therefore I do not think we should take up any part of our time with enquiring into an affair of so little consequence; for as to our learning from thence how the late act has been evaded, it is already publicly and perfectly known. I believe there is not a gentleman in this House, no nor a broker in Change-Alley, who does not know, that the late act was evaded by the subscribers giving a name for every 20 tickets they intended to subscribe for; and if the hon. gentleman who spoke last, or any gentleman, should propose a method for preventing this practice, or for preventing its being possible to give an undue preference to ministers, clerks of offices, or either of their favourites, when we have occasion for another lottery, I am persuaded, the House will readily agree to it, unless it should evidently appear to be such a method as would render it impossible to get the subscription filled; and this, I fear, will be the case with every effectual method that can be proposed, unless you make the lottery more advantageous for the subscribers, and more burthensome upon the public, than any lottery we have had since the happy accession of our present royal family; for no lottery we have had since that fortunate period, ever cost the public so much as the lotteries generally did before that time.

As to what the hon. and learned gentleman was pleased to say about the subscription receipts that were sold at a premium

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in Change-Alley, before the subscription books were opened, I do not see what reason we can have for enquiring into it, or how they came to make so early an appearance there. By the express words of the act itself, Sir, the receivers were empowered to receive subscriptions, and to grant receipts for the same, before their receiving the books with the tickets from the managers and directors of the lottery, therefore they might legally grant such receipts the moment they were appointed, and had given bond for being accountable, provided they gave no receipt for more than 20 tickets to one person; and if some few of those receipts were sold in Change Alley at a small premium, it was no certain sign that the lottery subscription would fill, or that the tickets would bear a premium after a glut of them came to market. Nay, these receipts might have been issued by the receivers, and sent to be sold in the Alley at a premium, before the subscription books were opened, on purpose and with a very good design, in order to encourage people to come in as soon as the books should be opened, and subscribe to a lottery which was certainly disadvantageous to the subscribers. I say, disadvantageous to the subscribers, Sir, for it was so extremely so, that when the act passed, I believe no man imagined that the madness of the people would grow to such a height as to raise the tickets to any considerable premium; and if the receivers made no mercenary or partial use of what afterwards happened, I am sure they deserve neither censure nor punishment; for, I hope this House will never judge, as mobs usually do, from the event of things, and condemn a man because an unexpected bad consequence ensued from a good or justifiable intention.

But, Sir, if these receipts were issued by the receivers with a mercenary view, in order to make an advantage by the sale, or if they made a partial or mercenary use of what afterwards happened, they deserve to be punished as well as censured; and as this may have been the case, as the popular clamour is very loud, at least against one of them, I am therefore for an enquiry into their conduct; but I am for a proper enquiry, which, I think, can only be made by those who by the act were empowered to appoint them, and to give them the necessary instructions. Whether they can punish or no, may be a future question; but they may certainly enquire: they are, in my opinion, the only proper persons for enquiring; because they best know what orders and instructions they gave to those whom they had appointed to be the receivers of the subscription; and no man, I believe, doubts either their capacity, their candour, or their diligence. If the receivers or any of them have been guilty of any mal-practices, I believe they will be more afraid of such an enquiry, than of an enquiry made by a committee of this House; and if the three right hon. persons, who are to make this enquiry, should upon the issue think, that neither they nor the crown have power to inflict an adequate punishment, upon a report from them, I am very sure, that this House would readily agree to any Bill that might be thought necessary for that purpose.

By this means, Sir, the truth may be come at, and the guilty, if any, be condignly punished, without any sort of encroachment upon our constitution; and therefore, that we may think of a proper method for procuring this enquiry, I shall conclude with moving for the previous question as to the motion now under consideration.

Mr. *Thomas Prowse*:

Sir; we all know, that the previous question is a very common method for putting a negative upon a motion, which is of such a nature that gentlemen are ashamed, or afraid, it should appear in our votes with a flat negative at the tail of it. The pretence usually made use of for the previous question, is because gentlemen want time to consider the motion before they can determine to be for it or against it, and this pretence may sometimes be made use of with some sort of plausibility; but the pretence now made use of has not so much as a shadow of plausibility in its favour. The pretence now made use of is, that we may direct an enquiry to be made by those whom we have no power to direct, and who, should they yield a voluntary obedience to our direction, have no power to enquire, much less to punish. You, Sir, may in some instances be subject to the directions of this House, though in this instance it is with me a question whether you are or no; but I am very sure that neither the archbishop of Canterbury, nor the lord high chancellor, can be deemed subject to any direction we can give, especially in what is now proposed. How ridiculous, then, would it be in us to think of directing them to join with you in making an enquiry into the conduct of the

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receivers of the subscription for the last lottery? And I hope no gentleman imagines, that we should address them to do so. Nay, we could not so much as address the king to order or direct them to do so; because even the crown itself has no power to issue any such order or direction, or to inflict any legal punishment upon them, should they refuse to obey.

But now, Sir, supposing that these two noble and learned lords should at your desire, and out of the respect they so deservedly have for you, voluntarily agree to join with you in making an enquiry into the conduct of these receivers, how could you enquire? You have no power to put an oath to any one you call before you: you have no power to punish any one that shall refuse to come at your call; or that, when come, shall refuse to answer such questions as you may think necessary; or that shall appear to be guilty of falshood or prevarication in the answers he is pleased to give. Under such a want of power, can it be supposed that you could enquire with any effect? Is it not certain, that the more criminal the offenders are, the less effectual your enquiry would be? Nor can this be answered by alleging, that all the persons you could have occasion to examine are officers employed under the crown, and consequently would be obliged not only to appear and answer, but to give a fair and full answer to every question, under the pain of being dismissed from their employments; for in order to come at the bottom of this affair, it appears necessary upon the very face of it, that several of the subscribers, and several brokers in Change-Alley, should be examined; and in the course of the enquiry it may be found, that it will be necessary to examine several other persons, none of whom will willingly appear, nor can any of them by you be subjected to any punishment for not appearing, or any other way compelled to appear.

It is therefore evident, Sir, that we can neither direct the enquiry which the hon. gentleman has been pleased to suggest, nor could it be carried on with any effect, without passing a new act of parliament for that purpose; and this, I am sure, would be of more dangerous consequence to our constitution than the parliamentary enquiry proposed; for I am really surprised to hear it pretended, that our doing what is properly the business of this House, and what every gentleman must allow to be one of the most necessary parts of our duty, can ever be of any dangerous consequence to our constitution. That this House is the grand inquest of the nation, and consequently bound to enquire into every grievance complained of by the people, is so well known, and so generally confessed, that I am almost ashamed to repeat it. Enquiries ought therefore to be frequent, as every one knows that popular grievances are so; and consequently a prosecution, either by impeachment, or Bill of pains and penalties, is so far from being the only end of an enquiry, that it can very seldom be the consequence; for a grievance may often be removed or redressed without any prosecution at all: sometimes a parliamentary censure of persons or practices may be thought necessary; and generally speaking, an address to the king to order his attorney-general to prosecute, would be the consequence of our enquiries, were they as frequent as they ought to be: even prosecutions by impeachment, or bill of pains and penalties, when found absolutely necessary, would tend to the preservation of our constitution, by rendering parliaments dear to the people, were such prosecutions more frequently carried on than they are against the oppressors and plunderers of the people; for whilst the king preserves his right to dissolve the parliament when he pleases, no faction in parliament can ever encroach upon the crown; and as to a factious party in the nation, I do not know what the hon. gentleman means by it. I am very sure, that the majority of the nation will never be for overturning our constitution; and if the party should be so numerous as to be able, after two or three trials, to return always a majority against the administration, it could not be a factious, but a national party, whose demands the king ought to comply with, by altering his measures, and dismissing his ministers.

If ever this, Sir, should happen to be the case, I shall readily grant, that not only a parliamentary enquiry, but a prosecution by impeachment, or Bill of pains and penalties, might very probably become necessary against some of the ministers, and, perhaps, even against some of their under clerks; for whatever the hon. gentleman may think, I am far from being of opinion, that it is inconsistent with the dignity of a British House of Commons to appear at the bar of the other House as the prosecutors even of an under clerk in one of our public offices. On the con-

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trary, I believe, that if we often did so, these Jacks in office would not behave with such insolence as they usually do, or venture to oppress and plunder those who are obliged to apply to those offices; and it would likewise, I believe, have a very good effect upon the conduct of the high and mighty lords commissioners their masters, who are but too apt to connive at the insolence and extortion of their underlings, as it renders their employments more desirable, and consequently more valuable to those that have the disposal of them; from whence we may easily see the reason, why an impeachment of any of these underlings should be represented as inconsistent with the dignity of a British House of Commons.

A prosecution by impeachment, Sir, is so far from being an encroachment upon our constitution, that it has made a part of our constitution, ever since we had any such thing as a settled form of government. As to Bills of pains and penalties, I shall, indeed, grant, that they are more extraordinary, of a more dangerous nature; but even this method of prosecution does not depend upon the rank of the offender, but upon the nature of the offence, or of the proof that may be had of it; and the behaviour of our ministers upon such occasions has always been something remarkable: when a plot against the government is to be enquired into and punished, one of the lowest rank of those who can be said to have any rank, may be a proper object for our enquiry, and for being punished by a Bill of pains and penalties; of this we had a remarkable instance in the 9th of his late majesty's reign; for in that year two several Bills of pains and penalties were passed against two men, neither of whom had any estate, nor could either of them be said to be of any higher rank than that of a gentleman. In all such cases, this method of prosecuting and punishing is deemed by our ministers to be a most constitutional and harmless method; and they hold it as a maxim, that the judge may be convinced, though the supposed criminal cannot be convicted. But when any of their associates or underlings have been concerned in a plot against the public purse, or the purse of the people, a parliamentary enquiry, and a Bill of pains and penalties, is by them said to be a most unconstitutional method of proceeding, and of a nature so extraordinary and dangerous, that it ought never to be pursued but against men of the highest rank: a low pilferer, they then insist, is not worth the notice of parliament, even though he has heaped up an immense fortune by defrauding the public, or the people, of scores of thousands; and that we ought rather to let such a criminal escape all punishment, than to descend below the dignity of a British House of Commons, or to have recourse to such an extraordinary and dangerous method of proceeding.

This, Sir, is the language which our ministers always hold in these two cases; but the language which we ought to hold, and which will be held by every free and independent parliament, is in both these cases directly contrary. In the last case we may, we ought to make a free and frequent use of our power, because our ministers have the chief direction of the prosecution for all such crimes at common law, and they are generally but too apt to neglect bringing any prosecution at all, or to prosecute in such a slovenly and negligent manner, that the most notorious criminal may probably meet with an acquittal. Whereas in the first of these two cases, we ought to be extremely cautious of making use of our power, because it is so easy for ministers to load even the most innocent man with very suspicious circumstances, and because it very seldom happens, that a person really guilty of any such crime can escape condign punishment by a trial at common law, which, we are sure, can never fail of being carried on with vigour and dispatch by our ministers. Thus we may see, that there is a very great difference between these two cases with respect to the use we ought to make of our power, and that this difference is directly contrary to what our ministers have always endeavoured to establish; but the most material difference still remains to be explained: a frequent, or even a rash use of our power against ministers, or their underlings, can never overturn our constitution, or become oppressive upon any innocent subject; because the effect of any factious or rash proceeding in this House, will always be prevented either by the crown, or the other House: but a frequent or rash use of our power against persons suspected of treasonable or seditious practices, may, by an ambitious prince, who has once by some means or other got a corrupt majority in parliament, be made an engine, not only for oppressing the most innocent, the most deserving men in the kingdom, but also for overturning our constitution, and establish-

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ing his arbitrary power. It was by such an engine that the first Roman Cæsars established and supported their tyrannical power; for having once got a venal majority in the senate, no man durst afterwards oppose any favourite court measure in the senate, or set himself up as a candidate at the election of any senatorial magistrate, without leave from the court; because, if he did, he was sure of being accused of some plot against the government, by some one of the band of *delatores*, or informers, which the court always kept secretly in pay; and the certain consequence was, his being condemned by the venal majority in the senate. Nay, so far was this carried at last, that it became dangerous for a man to acquire any character or reputation among the people; because if he did, he was called upon to countenance some tyrannical court measure, and if he refused, he had presently some sham plot fathered upon him, for which he was condemned and put to death, or proscribed, and his family ruined.

By these means, Sir, the emperors of Rome, after having once got a venal majority in their senate, were enabled to preserve that majority as long as that empire endured: and the consequence in this kingdom would be the same, were the ministerial doctrine with regard to parliamentary prosecutions once established. This should make us extremely shy of making use of our power at the desire of ministers, but always ready to make use of it against their inclination, as often as there appeared to be any necessity for our doing so: that is to say, as often as the crime complained of seemed to be such as could not be sufficiently punished at common law, and that, whether the persons supposed to be guilty be men of high rank or of low condition; for it is the nature of the crime, and not the condition of the criminal, that ought to be the subject of our consideration; and the nature of the crime can never be perfectly known, until after we have made a thorough enquiry. This, Sir, is the very case now before us: a very heinous crime is now publicly complained of, but how or by whom that crime was committed, we cannot determine before we have enquired: one thing, however, we are, I think, already certain of, which is, that let the crime be what it will, no prosecution at common law can be so much as commenced, unless we can by an enquiry lay some foundation for it. Whether we can lay such a foundation as may render a prosecution at common law effectual, is what I very much doubt; but this I am sure of, that if the crime appear to be as heinous as it has been represented, it ought some way or other to be most severely punished; for it is of the utmost consequence to the nation, to prevent any future lottery or subscription being made such a fraudulent use of by any man, or any set of men whatever.

An hon. gentleman was pleased to say in this debate, Sir, that as all the receivers are possessed of lucrative places under the government, a dismission from the public service would, in his opinion, be an adequate punishment for any offence they could commit as receivers. What, Sir, shall a little clerk of an office, by means of the trust reposed in him by the public, and in conjunction with some confederates, rob the people of 40 or 50,000*l.* and for such an atrocious robbery meet with no punishment but a dismission from the public service? If this can be supposed to be an adequate punishment, I am sure, the places possessed by these clerks are much more lucrative than they ought to be. But let them be never so lucrative, I am far from being of this opinion; and therefore, if upon the enquiry it should appear, that no further punishment can be inflicted by any sort of prosecution at common law, I shall be for a parliamentary prosecution as well as enquiry. What may be the result of the enquiry, I cannot foresee; but from this debate I see, that such plausible excuses may be made for the worst practices, that I am very much in doubt, whether any indictment can be formed against any one of these receivers, let him be never so criminal; and therefore I wish, that an hon. and learned gentleman had stayed to give us his opinion, as he must be employed, should any such prosecution be resolved on. But whether it may hereafter be possible or no to form an indictment, I am persuaded no gentleman will say, that it is possible to form an indictment until a discovery has been made of the practices by which, and the persons by whose means, the people have been plundered; and as little will any gentleman say, that this discovery can be made by any court, or by any method, but by a parliamentary enquiry; therefore I must say, I am a good deal surprised to find this motion opposed; for in my opinion, and I hope I have given good reasons for being of opinion, that no gentleman can be against the motion, but

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one who thinks that no criminal fact has been committed, or one who is for letting the criminal go without any punishment, no not even that of a dismission from any lucrative post he may have under the government.

Mr. *Nicholas Hardinge*:

Sir; I cannot help being of opinion, that a wrong turn has been given to this debate during the whole course of it. No gentleman will deny that this House is the grand inquest of the nation, or that it is our duty to enquire into, and to remove or redress, if we can, every public grievance complained of, if there appears to be good ground for that complaint. So likewise, when any atrocious crime has been committed against the public, which cannot be prosecuted or effectually punished by any sort of proceeding at common law, every gentleman will grant, that it is our duty to enquire into it, and even to prosecute it in a parliamentary manner, if we should not be able by our enquiry to lay a foundation for a prosecution at common law. But, surely, it is not our duty to take upon us the business of a coroner's inquest, or of a grand jury, nor ought we to take up our time with enquiring into any crime, even of a public nature, when it appears evident, that if any such crime has been committed, it may be prosecuted and effectually punished by information, or indictment at common law.

After having made this distinction, Sir, let us maturely examine the affair now under our consideration, in order to determine, whether any grievance has been brought upon the nation by means of the last lottery. Whether any crime of a public nature relating to that lottery has been committed? And whether that crime, if any has been committed, may not be effectually prosecuted and sufficiently punished by information or indictment? For as the hon. gentleman who made you this motion hoped, that all the receivers of the subscription might appear to be innocent, I hope I may be allowed to make every one of these facts a question. Now, Sir, as to the grievance complained of, I must beg leave to think, that a lottery ticket selling above par, or at what is called a premium, is no more a national grievance, than any other public fund selling above par. On the contrary, I hope that all our public funds will always bear a premium; though this will certainly be a loss to every person possessed of them when they come to be paid off, and though the necessary consequence will always be, that a man who buys in hopes of making an advantage by the rise of the premium, may often be disappointed, and some who deal too largely and too rashly in this way will every now and then be undone. This, therefore, may often be a private misfortune, and the same sort of misfortune daily happens by dealing in every other sort of commodity or merchandize; but it is so far from being a national grievance, that it is a national benefit.

The high advance of the premium upon the tickets of the last lottery is not therefore, Sir, in itself a national grievance, and consequently it is not an affair which it is our business or duty to enquire into, no more than it is our business or duty to enquire into any accidental advance in the price of any other commodity usually brought to market. But if any fraudulent arts were made use of to raise the price of, or premium upon those tickets, such as were made use of in the year 1720, and numbers of his majesty's subjects have been thereby imposed on and undone, this may furnish matter for a parliamentary enquiry; and this leads me to the second question I have proposed. Upon this question, Sir, we are first to examine into the conduct of the receivers of the subscription, and next into the conduct of those who were the original subscribers; and with respect to both I must beg leave to doubt, whether any of them have been guilty of any illegal and fraudulent practices; for though I have heard a great deal of murmuring among those who were deceived and disappointed by their too sanguine hopes, yet I could never hear of any fact that could be deemed illegal or fraudulent, therefore I am very apt to believe, that the first rise of the tickets proceeded from that epidemical itch of gaming which now prevails among the people, and that the future rise proceeded not from the fraudulent arts of the receivers or the original subscribers, but from the too sanguine hopes of them who became purchasers.

Now, Sir, with regard to the receivers of the subscription, if any of them received subscriptions and gave receipts before the books were opened, it was so far from being illegal, that they were expressly empowered by the act to do so; and it was not, surely, in itself fraudulent. Again, Sir, as foreigners are considerable proprietors in all our public funds, and num-

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bers of them have been, and, I hope, will always be subscribers to every new fund, and as multitudes of people who live at a distance from London have always been adventurers in every new lottery, if a banker, broker, or factor, came to any of the receivers before or after the opening the subscription books, with two or three hundred names, for each of whom he desired 20 tickets, it was neither illegal nor fraudulent in the receiver to give him the number desired. On the contrary, if he had refused, and the lottery had not filled, he would then have been blamed, and perhaps a complaint made here against him, as the cause of that misfortune; for though a man's calling for such a number of tickets, and giving in such a number of names, was a proof of his having a very extensive correspondence, it was no proof that all these tickets were for his own benefit, nor was it possible for the receiver to discover that they were so. In short, Sir, when we come to consider this affair maturely, I think every gentleman must see, that the receivers of the subscription to the last lottery were by the act placed in a more ticklish situation than, I believe, they themselves suspected; for if they adhered strictly to the terms of the act, there was great danger of its preventing the lottery from being filled, and if they departed any way from the terms of the act, they were in danger of its being supposed, as it has been, that they did so with a fraudulent intention; and it must be granted, that what they did was the most proper for answering the end of the public, though not the safest for themselves; therefore it is but charitable to believe, that none of the receivers were guilty of any real crime, nor is the public clamour any foundation for believing the contrary; for it certainly arises, not from those who were the original subscribers, but from those who were induced by their avarice and too sanguine hopes to become purchasers; and whether such men deserve the care of parliament, I leave to gentlemen's consideration.

I come now, of course, Sir, to the original subscribers; and as to them I must observe, that though the receivers were by the act restrained from allowing any man to subscribe for more than 20 tickets, yet no man was restrained by that act, or any other law in being, from subscribing for as many tickets as he could procure, either in his own name or the names of other persons. Therefore, if any one man did thus procure 10,000 tickets for his own benefit, it was no way illegal in him, nor can I think it was fraudulent or criminal, unless he did it in pursuance of a confederacy with others, to ingross the whole, or greatest part of the lottery, in order afterwards to make an unjust advantage by the sale of the tickets; and I have never yet heard so much as an insinuation, that any such confederacy was ever formed, much less that this was the cause of the great rise of the premium upon the tickets: nor do I believe that there really was any such confederacy.

But now, Sir, allow me to rack my invention, in order to see if I can suggest any fraudulent practice that the receivers or subscribers might have been guilty of. As to the former, if any of them knowingly allowed a man to subscribe for a great number of tickets for his own benefit, upon his giving in a sham name for every 20 he subscribed for, it was indeed an evasion of the act, but I do not think it was criminal, or fraudulent, unless he entered into a covenant with that subscriber to have a share of the profits to be made by the sale, or stipulated some other advantage or reward for the evasion he thus knowingly permitted. Besides this, I cannot suggest any criminal or fraudulent practice a receiver could be guilty of, except that of reserving a great number of tickets for himself, and afterwards disposing of them at a high premium; for if any of them did this, it was a breach of trust for which they ought to be punished. Then as to the subscribers, besides the confederacy already mentioned, I can suggest no other fraudulent practice any of them could have been guilty of, but what, I am told, is too frequent in Change Alley, which is, to send three or four brokers thither, to make sham sales to one another of lottery tickets, or some other public fund, at a price higher or lower than the then market, in order to raise or fall the current price of that fund.

Having now mentioned, Sir, all the fraudulent practices my fancy can suggest with regard to the late lottery, I come to the third question I stated, whether the crime may not be effectually prosecuted and sufficiently punished by information or indictment at common law? For if this question can be answered in the affirmative, it is not our business, and far less our duty, to take up our time with enquiring into the crime, and our prosecuting it in a parliamentary manner, would, in my opi-

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nion, be inconsistent with our constitution. After saying this, Sir, I will say, that there is not any one of the crimes I have mentioned, but what may be effectually prosecuted and sufficiently punished by a trial at law. Every one of them is a misdemeanor against which an information or indictment will lie; and the punishment is fine and imprisonment at the discretion of the judges, who would certainly consider the heinousness of the offence, and also the advantage which the offender might probably have made by it, and would proportion the punishment accordingly. As to an information, a proper one might very easily be drawn up, and though I am far from pretending to be an expert lawyer, especially as to the drawing part of the law, yet I will venture to say, that I could draw up an indictment, against which no objection could be made.

And now, Sir, after what I have said, I hope I may venture to declare myself against the motion, without any danger of being charged with thinking that no crime has been committed, or with any inclination to let the criminals, whoever they are, escape without punishment.

Mr. *Charles Townshend:*

Sir; as I rise up to declare in favour of the motion now under our consideration, I must begin with desiring gentlemen, especially those who seem to be against it, not to connect the ideas of enquiry and punishment together. They are things of a quite different nature, and though the latter is often the consequence of the former, yet they have no necessary dependence on one another; for though common fame be allowed to be a good foundation for a parliamentary enquiry, yet no man will suppose it to be a good foundation for a parliamentary, or any other sort of punishment: as common fame is still, we find, what it was of old,

"Tam ficti pravique tenax, quam nuncia veri."

And therefore in all cases, the first and chief end of a parliamentary enquiry is, to discover, whether it be the messenger of truth or falsehood; for if punishment is to follow, it must always be by a new and a very different method of proceeding, which can never begin until after the enquiry is ended. In the present case, it is very certain, that common fame is loud and general against the receivers of the subcription for last lottery: It is certain, that occasion was from thence taken to raise a spirit of stockjobbing among the people, contrary to the intention of the legislature. But whether this proceeded from the conduct of the receivers, or subscribers, or from the avaricious gaming spirit now prevailing among the people, is a question. For my own part, I am fully convinced, that it could not proceed entirely from the last; there must have been some bad conduct somewhere; for if the tickets had been as generally dispersed as the legislature intended and directed, every man possessed by that evil spirit, would have found an opportunity to allay it, without purchasing tickets at any high premium, because 5,000 people could not have laid their heads together to over-rule and enhance the market, nor would it have been worth any man's while to practise the arts of Change-Alley, for what he could get by the sale of 20 tickets.

I am therefore fully convinced, Sir, that the receivers or subscribers, or some of them, were guilty of some sort of conduct that was not right; but whether that conduct was criminal or erroneous, is what neither I nor any gentleman in this House can, before the result of an enquiry, determine. If it was criminal, I hope, the criminals, whoever they be, will be punished; for all crimes ought to be punished some way or other; but errors can be censured only, unless they should appear to be very gross, and such as might enable the person guilty to gain some very signal advantage; for in that case, I think it is no breach of charity to presume, though it cannot be proved, that the error was wilful and mercenary, and consequently criminal. And even from what is publicly known with regard to the method in which the subscriptions were taken in, I am apt to suspect, that the receivers, or some of them, will appear to have been guilty of some error of this kind. It is easy to invent and assign a plausible reason for departing from the directions of the act. It is easy for the receivers to pretend their having been apprehensive, that the subscription would not have been filled, if the directions of the act had been strictly adhered to; but if it should appear that they wilfully departed from them, this can be no excuse; first, because it was, in my opinion, a vain and groundless fear, for no man could suppose, that in a time of profound peace, and when there was no where any great demand for money at interest, there was not in the British dominions, and in those neighbouring countries with which we

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have a continual correspondence, an hundred thousand persons who would be ready and willing to advance 3*l.* merely for the sake of being in the way of fortune, had the chance of the lottery been more unequal than it was, as every one was secure against the practice of any fraud in the drawing, and of being duly paid the prize he should become intitled to, whatever it might be. And, in the next place, had there been any solid ground for this fear, the receivers had no power to depart from the directions of the act: it was the height of arrogance in them to pretend to it, because it was assuming to themselves a degree of wisdom superior to that of the legislature.

This pretended fear cannot therefore, Sir, be any excuse for the receivers departing from the directions given by the act, or by those who were by the act empowered to give them further directions; and if we consider the reason why the legislature confined the subscription to not above 20 tickets to any one person, we must presume, that if they knowingly transgressed this rule, they did it with a corrupt and mercenary design. What was the legislature's reason for thus confining the subscription? Was it not to prevent those evils, which in most lotteries had been experienced, namely, that of leaving it in the power of the receivers to give a preference to their friends and favourites, or to confederate with a few rich men, in order to forestall the market, and by ingrossing a great number of tickets, to raise them to a high premium, by means of the arts usually practised in Change-Alley? If, then, it should appear, that the receivers knowingly allowed any one person, or any number of persons, under any pretence whatsoever, to subscribe for thousands of tickets each, after it appeared so evident, that the tickets would sell at a premium, can we suppose that they did so without privately stipulating some advantage, or some share of the profits to themselves? I shall grant, that if they did so without any such private stipulation, it was only an error in conduct, for which they ought to be censured, though not punished; but if we consider how difficult, if not impossible, it is to prove any such private stipulation, as I have said before, I do not think it any breach of charity, nor contrary to any rule of law, for the parliament to presume such a private stipulation, and to treat them accordingly.

Now, Sir, with regard to the taking in subscriptions and issuing receipts before the books were opened, I shall grant, that the receivers were by the act empowered to do so, before their receiving the books with the tickets from the managers and directors of the lottery; but every one knew, that the subscription was designed by the legislature to be open and free. Even the receivers themselves were so sensible of this, that they appointed and publicly advertised in the Gazette, the day when, and the place where, the subscription books were to be opened, and how long they were to continue open; therefore their taking in subscriptions privately at any other time or place, was granting a preference to their friends and favourites; contrary to what they knew to be the design of the legislature; and their issuing receipts for such subscriptions before the day appointed for opening the books was, in my opinion, the chief cause of all those stock-jobbing arts which were afterwards set on foot. This, therefore, was likewise at least an error in conduct, for which they ought to be censured; and if the amount of the subscriptions so taken in was any way considerable, I am apt to suspect it was done with a criminal design, that is to say, with a design to procure some illegal and unjust advantage to themselves, though this too is a fact, which, I fear, it will not be in the power even of this House to discover, so as to found a prosecution at common law.

Lastly, Sir, with regard to the subscribers, I was indeed surprised to hear the hon. and learned gentleman who spoke last contend, that because no man was expressly by the act restrained from subscribing for as many tickets as he could procure, therefore it was not illegal, nor fraudulent or criminal in a man to procure 10,000 tickets for his own benefit, unless he did it in confederacy with others, to ingross the whole, or the greatest part of the lottery, in order afterwards to make an unjust advantage by the sale. Surely, the learned gentleman who, notwithstanding his modesty, knows as much of the law as most others, must allow, that forestalling, regrating, and ingrossing, were crimes in their own nature, before the law was made against them in the reign of Edward 6, and he will likewise, I believe allow, that these crimes are properly described in that statute. Let, us, then, see what that law says: it declares, that a buying or contracting for any merchandize, 'victual, or any other thing whatsoever' in the way,

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coming by land or water to any fair or market to be sold, or causing the same to be bought, or a dissuading people by word, letter, message, or otherwise, from bringing such things to market, or persuading them to enhance the price after they are brought thither, is forestalling. Now, according to this part of the law, it is evident that all those who subscribed for tickets before the opening of the books, were forestallers; and some of those who subscribed afterwards may be found to have been so; for if any one of them employed brokers to make sham purchases in order to enhance the price of tickets, he was a forestaller by the express words of this law, the punishment of which is a forfeiture of the goods so bought or sold, or the value of them, and two months imprisonment.

By the same law, Sir, it is in the next place declared, that a regrating is a buying, or obtaining any of the commodities therein mentioned, when brought to a market to be sold there, and a selling of the same again, in the same fair or market, or place, or in some other fair or market, within four miles. And in the third place it is by the same law declared, that an ingrossing is a getting into one's possession by buying, contract, or promise, any of the goods therein mentioned, with intent to sell them again. It is true, as lottery tickets had never then been heard of, they are not among the goods mentioned in the two last parts, of the statute, consequently the regrators or ingrossers of them could not be indicted upon this statute, but, I believe, if the fact were proved, an indictment would lie at common law; and perhaps many of the original subscribers might be indicted by that ancient rule of the common law, which provides, that no merchant shall buy in gross within the realm, and sell the same commodity again in gross within the realm; for such a man was, by our ancient law, and long before this statute of Edward 6, deemed to be a "forstellarius qui est pauperum depressor, et totius communitatis et patriæ publicus inimicus."

I am therefore, Sir, ready to concur with the hon. and learned gentleman in opinion, that if the particular crimes which have been committed, and the persons who did commit those crimes, as also the persons who could prove the facts, were known, the guilty might be prosecuted and punished by indictment or information at common law; but though it is probable, and common fame avers, that some very heinous frauds were practised with respect to the subscription and sale of the tickets for the last lottery, yet we neither know what sort of frauds they were, nor do we know who were the persons guilty, or who they are that can give evidence of their guilt; and in such circumstances, under such a total ignorance both as to persons and facts, the most cunning lawyer that ever appeared in Westminster-Hall, would find it impossible to commence a prosecution at common law. It is this, Sir, that makes a parliamentary enquiry necessary. If any fraudulent practices were committed, we may probably by such an enquiry discover what those practices were, who were the persons guilty, and who are the most proper persons for proving the facts to the satisfaction of a jury; and I believe, no man can pretend to shew, how these discoveries can be made by any other method than that of a previous enquiry in parliament. When by a proper and a strict enquiry we have made these discoveries, which, I hope, we shall be able to do, we may then determine what is the next course to be taken; for though I am very clear that the criminals, if any be, ought to be punished, yet I shall be for suffering the guilty to escape rather than concur in any thing that may hurt our constitution. But at present I am under no apprehension of being brought under such a dilemma: I am sure we may not only enquire, but may make that enquiry as strict as we please, without the least incroachment upon our constitution; and if there be any truth in what is so generally reported, I am convinced, we shall be able to lay a solid foundation for a conviction as well as prosecution at common law; in which case I can with confidence trust to the justice of our judges, for inflicting as severe a punishment upon the guilty, as the singular lenity of our law will admit of; therefore I shall most heartily give my vote for agreeing to the motion.

The question was put upon the motion, and carried in the affirmative without a division: whereupon a Committee was appointed, who were to examine the said Book, and to report to the House what they should find in the same material to be laid before the House.

Dec. 17. The above mentioned Accounts were referred to the said committee, and they having chosen Mr. George Cooke

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for their chairman, proceeded to examine as directed, during which they examined all the receivers and their clerks, as also several other persons, and at last agreed upon such facts as they thought material to be laid before the House; which Mr. Cooke reported to the House on the 5th of March following, when it was ordered, That the said Report should be taken into consideration on the 14th, and the same having been then taken into consideration, and several clauses of the said act read, the following Resolutions were agreed to by the House, viz.

1. "That Peter Leheup, esq. did enter the names of several persons, as contributors to the Lottery, established by an Act passed last session of parliament, in the book prepared by his order, and for his use, as one of the receivers of the contributions to the said lottery; and that contributors' names for above 5,800 tickets were entered by him in the said book, before the first meeting of the receivers, on the 9th of June, 1753.

2. "That the said Peter Leheup took upon himself the management, order, and direction, of this branch of the lottery, appointing the place to receive contributions at, and preparing the advertisement for that purpose; naming clerks for the other receivers; providing books and printed forms of receipts; and directing the other receivers how to proceed.

3. "That the lottery office at the Exchequer, was the place appointed to receive contributions to the said lottery, whereof notice was given by the receivers in the London Gazette, of June 9, 1753, purporting, that the said receivers would attend on the then 14th instant at the said office, from nine till one o'clock in the forenoon, and so continue constantly every day, Sundays and holidays excepted.

4. "That the said receivers, without regard to the above notice, did take in many contributions on the said June 9, and on several other days, preceding the time appointed by them in the Gazette for that purpose.

5. "That contributions were taken in by the said receivers on Thursday, the said June 14, before and after the hours appointed, and after proclamation was made, that no more would be taken that day, and after the doors were ordered to be shut in pursuance of such public notice.

6. "That contributions were taken by the said Mr. Leheup, at the Treasury, on the 11th or 12th, and on June 13 last, particularly, for Mr. Calmel, who asked for 260 or 270 tickets.

7. "That the said Peter Leheup (after telling the said Mr. Calmel, there could be only 20 tickets in his own name) bid him take paper, and pen and ink, and sit down in the office and make out a list: that, after Mr. Calmel had so made out a list of names for the number of tickets he proposed taking, Mr. Leheup made no objection to the names, but delivered him receipts for that number of tickets.

8. "That the said Peter Leheup did not make good his first payment at the Bank, within three days after the lottery was full, as the other receivers did, and as the act directs.

9. "That no contributors first payment for tickets in the said lottery became forfeited, till after Oct. 26, 1753.

10. "That the said Peter Leheup disposed of 60 tickets in his department, on or before October 26, 1753, which he has returned as forfeited tickets.

11. "That the said Peter Leheup has not accounted for the premium such tickets bore, as the other receivers have done.

12. "That the receivers could have no property in, or any right to dispose of, the non-claimed tickets.

13. "That it appears to this House, that receipts for many thousand tickets were publicly sold in Exchange-Alley, within a few days after the lottery was full, viz. on and before June 21, for Sampson Gideon, esq. at a very considerable premium; and that a draught of the said Mr. Gideon's, payable to the said Mr. Leheup, for 40*l.* was paid into the Bank by him, in part of his first payment, on or about June 18, 1753; and that by draught or order of the said Mr. Gideon, 1,666*l.* 5*s.* were paid to Mr. Brassey's and company, bankers, on June 19, 1753, to Peter Leheup, jun.; 1,550*l.* whereof was paid in three bank notes; which individual bank notes were paid into the Bank on June 21, 1753, by the said Peter Leheup, the receiver, towards making good his first payment.

14. "That, after the said receivers had, by public notice in the Gazette, appointed a time and place for the receiving contributions for the purchase of tickets in the said lottery, the taking in contributions, and issuing receipts, before that time was contrary to the method prescribed by the act, defeating the purposes of an open subscription, and an imposition on the public.

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15. "That the said Peter Leheup, having, before the said act passed, taken in contributions to the said lottery, did thereby assume to himself a power of predetermining, what should be the proceeding, and who should be the contributors under the said act; and that several of the provisions in the said act, when it was passed (declaring, that the contributions should be received in a public manner, and from any person) were thereby in a great measure defeated, and rendered ineffectual.

16. "That the said Peter Leheup, in entering the names of persons as contributors, who did not make their first payment at the time of his accepting them as such, and afterwards in taking upon himself to become contributor for the tickets, which were entered in the names of several of the said persons, and in taking contributions privately at the Treasury, instead of publicly at the lottery office, was guilty of a direct violation of the said act, and of a breach of trust.

17. "That the said Peter Leheup, one of the receivers of the said lottery, in receiving contributions on the said June 14, till eight at night, and after proclamation was publicly made about one o'clock, by order of the said Mr. Leheup, that no more would be taken that day, and the office doors then shut;—in disposing of the non-claimed and double charged tickets, instead of re-delivering them to the managers and directors of the lottery, as the act directs;—in disposing of 60 tickets as forfeited, before they actually became forfeited;—in aiding and instructing contributors, how that part of the said act, which directs, that no person should be allowed to subscribe for more than twenty tickets, might be evaded;—and in not paying the contributions into the Bank within the time limited by the said act, was guilty of a further violation of the said act, and of another breach of trust.

18. "That an humble Address be presented to his majesty, that he will be graciously pleased to direct his Attorney General forthwith to prosecute, in the most effectual manner, the said Peter Leheup, for his said offences."

Most of these Resolutions were unanimously agreed to, but the last occasioned the following Debate:

Mr. *George Cooke:*

Sir; when I moved for the committee, whose Report you have now under your consideration, I said I hoped, and even wished, that the gentleman then chiefly accused, might appear innocent of the several fraudulent practices laid to his charge by the public voice. This I was induced to, by the general good opinion I have of mankind, which shall always prevent my supposing a man guilty of any crime, until he has been convicted of it by such evidence as cannot admit of a doubt; but I was never more disappointed in my hopes or wishes, than I have been in the case now before us; for the unfortunate man appears to have been guilty of every thing laid to his charge, and I must confess, that the proof has come out much more strongly against him, than could have been expected in such a secret and dark transaction, as is, I think, evident from the Resolutions which the Committee have come to, and the proofs upon which those Resolutions are founded. As it is a misfortune for any man to be accused of a heinous crime by common fame, I always have a compassion for such a man, until it appears by incontestable proofs, that the accusation is well founded; but my compassion then rises in favour of the sufferers, and a just resentment against the criminal author of their sufferings.

This is the case at present, Sir: several of the fraudulent practices of the gentleman, whose conduct is now under our consideration, have been proved without a possibility of doubting, and that he was guilty of several others not yet discovered, there is the highest presumption. By these practices many private families have suffered, and by their consequences the public may hereafter suffer more than can now be foreseen or described. Shall we allow such a heinous criminal to go unpunished? Shall we suffer one of our own acts to be so fraudulently evaded with impunity? Happy it is for him, that he does not live under an absolute and arbitrary government; for I am afraid, that our constitution will not permit us to inflict such a punishment as his crimes deserve, or as the sufferings of private men, as well as the public, may require; but surely, no gentleman will oppose our subjecting him to any sort of punishment we can inflict without encroaching upon our constitution. It is true, he is but a very low officer, and consequently, it may be said, not worthy the attention or the resentment of parliament. I shall grant, Sir, he never made himself worthy of the notice of parliament, or of any other sort of public no-

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tice, but by his crimes; but his crimes are such as deserve the notice both of the parliament and the public; for it is by such crimes, that this nation has been brought under that load of debts under which it will, I fear, sink at last; and if often repeated, as they certainly will be, if continued to be left unpunished, must be attended with the most fatal consequences to the nation. The load of debts, under which we now groan, has not been brought upon us by the frauds or the jobs of any of the high and great officers amongst us: they generally deserve what they have for services from the public, and indeed there have been, but few of them that have got much by their service, besides the honour of having faithfully and honestly served their country; but the little clerks and underlings in office, by their fraudulent jobs, and by oppressing or cheating all those who were obliged to apply to them, have often made more in one year, than their masters, the commissioners, could make by their salaries in twenty. This we may be convinced of by the monstrous estates that some of them have left behind them, while at the same time we know that very few of their masters have added much to their paternal fortunes: from whence we must conclude, that it has been chiefly by little officers and brokers that the people of this nation have been plundered, and the public so much defrauded, that no man will contract with it, or furnish any thing for the public service, but at a most extravagant price.

The very case now before us, Sir, is a proof of what I say, and may shew us what lucrative frauds may be committed, what gross impositions may be put upon the public by little under officers, nor is this officer the only one that has been guilty; for if I have the honour of a seat in the next parliament, and be not discouraged by the impunity this man meets with, I shall take upon me to point out several more such frauds, particularly with respect to the navy, in which the conduct of some little low officers highly deserve the notice of this House, because their practices can neither be fully detected, nor duly punished by any other method. The low condition of this officer is therefore far from being an argument for its being beneath the dignity of this House to interfere in such matters. From the Report, we have great reason to suppose, that even a committee of this House have not been able to discover all the frauds this man has been guilty of, in this single affair; but at the same time we may see, that they have made discoveries, which could not have been made by any sort of prosecution at common law, or by any other method but that of a parliamentary enquiry. This should convince us, that such enquiries ought to be frequently gone into, and that those enquiries ought to be made into the conduct of our low, as well as high officers: with respect to the former, indeed, it may seldom be worth our while to proceed to an impeachment, or Bill of pains and penalties, because after a discovery has been made of their mal-practices, by a committee of this House, they may generally be punished by a prosecution at common law, or at least they might be removed from their offices, which, in most cases, would be a sufficient punishment; and one example of this kind would be a security for the good behaviour of all the rest, perhaps for several years after. From this consideration, and the success we have had, the resolution we came to for appointing this committee, must not only be justified, but applauded; and a few more examples of the same kind would, I am sure, save the public a large sum of money yearly, and prevent that extortion which every man is subject to, who has occasion to apply to our public offices for money, or to get any other sort of business dispatched; for with respect to all our public offices, it may justly, I believe, be said, that dispatch is a commodity, which is always sold at a most extravagant price.

For this reason, Sir, I am convinced, that it would be of great service to the nation, to have a committee appointed to enquire into the conduct of the underlings in every one of our public offices; but the affair now under our consideration requires our attention more than the common affairs of any office, because of the bad consequence it may be attended with, should we ever again have occasion to raise money by a lottery. Every one knows, that the great complaint against lotteries has always been, that some rich stock-jobbers, by bribing the clerks, always engross the subscription, and then sell the tickets out at what price they please to those who incline to become adventurers, by which these stock-jobbers not only impose a heavy tax for their own private benefit upon the people, but propagate a spirit of stock-jobbing in the nation, by which numbers of tradesmen and others

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are undone. For this reason, the legislature resolved, in passing the late lottery act, to make a trial how money might be raised by a fair and open subscription, but as soon as this gentleman found himself entrusted with a share in taking in the subscription, he resolved, that it should neither be open nor free, and this resolution he carried into execution, by transgressing or evading every one of the regulations prescribed by the legislature, for making the subscription open and free for every one who might incline to become an adventurer. Nay, he not only evaded the act himself, but he connived at its being evaded by others, and even taught some of his friends how it might be evaded; all which has been fully proved, as may appear from the Report; and if one gentleman, who seems to have been one of his confederates, had not gone over to France about the time this session was opened, and consequently could not be brought before the committee, perhaps some practices still more corrupt might have been proved against him.

Notwithstanding this disappointment, Sir, which your committee met with, in the course of their proceedings, they have very plainly and fully discovered, that the directions prescribed by the act, for taking in the subscription, were not broke through, at least by one of the receivers, either by mistake or negligence, but purposely and with a corrupt design to introduce and promote that engrossing stock-jobbing trade, which had been so justly complained of in former lotteries, and which the legislature had resolved to prevent in the last. For this purpose it was enacted, that a certain place and time should be appointed for opening the subscription books, and that public notice of both should be given in the London Gazette. In the second place it was enacted, that no one person should be allowed to subscribe for more than 20 tickets. And in the third, that four different persons should be appointed to be receivers of the subscription money. These were the three chief regulations established by the act, and every one knew what was the design of the legislature in establishing these regulations. Was it not evident, Sir, that by the last of these regulations every one of the receivers was to have an equal share in the management, and an equal share of the subscription, to be by him disposed of; but instead of this, one of them, under pretence of his being more conversant in these affairs than any of the rest, took upon himself, alone, the whole management, order, and direction of the subscription, by appointing the time and place at which subscriptions were to be received, and preparing the advertisement for that purpose; by providing books and printed forms of receipts; and by directing the other receivers how to proceed: nay, he even took upon him to name the clerks who were to be employed by the other receivers; and by these means, he by himself alone, disposed of near one half of the whole subscription, whereas his share was but a fourth? Can it be supposed, that any man would have taken upon himself so much unnecessary trouble and fatigue, without some selfish and sinister consideration? Can this more especially be supposed of a man who is known to love money, at least as well as most of his neighbours?

By the second regulation I have mentioned, Sir, it is evident, that the receivers were to take all possible care not to allow any one person to subscribe for more than 20 tickets on his own account, much less were they knowingly to connive at any man's subscribing for as many tickets as he pleased, by giving in a sham name for every 20 tickets he desired to subscribe for; as this was plainly an evasion of the act, and a putting it in the power of rich stock-jobbers to engross the whole subscription, which was the very evil designed by the legislature to be prevented. But it has been fully proved, that one of these receivers not only connived at this evasion, but instructed people how to put it in practice; and to this chiefly was owing that spirit of stock-jobbing afterwards raised in Change Alley, in which it is highly probable, that this receiver and his associates had a considerable share, and that this was his corrupt view in departing from the rules prescribed by the act, and in taking so much unnecessary trouble and fatigue upon himself alone.

Lastly, Sir, as to the first regulation I have mentioned, every one must have seen, and the receivers could not but know, that the design of it, was for giving due notice to every one, at home or abroad, who inclined to become an adventurer, of the time and place, when and where, the books were to be opened, consequently, with regard to the time, it should have been at least a fortnight after the notice was published in the Gazette, that the merchants and factors in London might

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have had time to write to their correspondents abroad, as well as in the country, and to receive their orders before the books were to be opened; for in all lotteries, especially such a one as the last, we should certainly endeavour to bring in as many foreign subscribers as possible; and whatever time was fixed by the notice in the Gazette, should have been most religiously observed, so that no one should have been allowed to subscribe either before or after that time. Then with regard to the place, surely it must be granted, that no subscription should have been taken in at any other place than that appointed by the notice in the Gazette; for to do so was a direct violation of what was expressly prescribed by the act, in order to introduce what the legislature designed to guard against, which was that of its being in the power of the receivers to give an unjust preference to their friends or associates.

After having thus stated what was the true and plain purport of this relation, let us see, Sir, what was done by this gentleman receiver who took upon him the whole management of the subscription. Did he observe either the words or the spirit of the act? Not a tittle of either. In the first place, the notice in the Gazette was not published till Saturday the 9th of June, and by that notice the subscription books were to be opened on Thursday the 14th, by which means all foreigners were at once precluded from having any share in the subscription: nay, no gentleman who lived 30 or 40 miles from London, could have time to send orders to his correspondent to subscribe for him; so that the greatest part of the subscription came to be engrossed by the brokers and stock-jobbers in Change-Alley, as this receiver, I believe, designed it should. And that this was his design is the more probable, as it appears that subscriptions, to the amount of near 6,000 tickets, were taken in privately, by him, even before the first meeting of the receivers on the said 9th of June; and that he not only continued, but advised the other receivers, to take in subscriptions at other places, and before the time prescribed by the notice in the London Gazette, so that tickets were sold in Change-Alley at a premium, even before the time appointed for opening the subscription books, which of course produced a prodigious crowd when the books came to be opened; for when people saw, or at least were made to suppose, that by the advance of 20*l.* they might have their money returned in a few hours with 30 or 40*s.* clear profit, we cannot wonder that every man who had 20*l.* at command crowded to be admitted a subscriber; and this crowd produced the very effect which the legislature designed to prevent, but this receiver resolved they should not, for in a few days it raised tickets to a monstrous premium, and propagated such a spirit of stock-jobbing as has been the ruin of more merchants and tradesmen in the cities of London and Westminster than can as yet be discovered; and as this misfortune has been brought about by a most barefaced evasion of all the regulations we had contrived for preventing it, I think we are in duty to ourselves, as well as our country, obliged to see the author of it duly punished. What method we are to take for this purpose, I shall not take upon me to propose, until I hear something of the sense of the House upon the subject: I have thought of two methods, one of which is, to resolve, that it is the opinion of this House, that Peter Leheup is not fit to be employed in any place of trust under the government; and the other is, to resolve to address his majesty to order his attorney general to prosecute him. These are the two methods I have thought of, and if I find the House inclined to either of them, I shall again rise up and make the proper motion.

Mr. *Robert Nugent*:

Sir; I am against both the methods the hon. gentleman has been pleased to propose, because I think the object below the dignity of this House, and consequently I must think it inconsistent with our constitution for us to appear either as his prosecutors, or as the authors or advisers of his prosecution. I have been always against our intermeddling in any case of a very low nature. I appeared against it soon after I came first into parliament; for, in the famous case of Paxton,* I differed from those, with whom I at that time concurred upon most other occasions. The interposition of this House in trivial matters, or where none but persons of a low rank can be supposed to be concerned, may be of the most dangerous consequence to our own dignity, and to the safety of the subject; for in such a numerous assembly gentlemen are but too apt to indulge a passion in itself laudable, especially when a man who is otherwise of an odious

* See Vol. 12, p. 625.

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character, happens to be brought before us. A zeal to detect and punish rogues of all kinds, when kept within due bounds, is certainly a laudable passion, because of great use to society; but when too much indulged, as it generally is in popular assemblies, it is apt to raise mole-hills into mountains; to look upon that as a full proof which is scarcely a presumption, and to think the crime much more heinous than it really is; therefore our interposing in affairs of a trifling nature may tend to diminish that respect which is due to this assembly, and may become so frequent as to be very oppressive upon the subject. A great minister or a high officer, when accused of any heinous offence against the state, may be supposed to be above the reach of the common law, and consequently the interposition of parliament becomes in such case necessary. Such offenders are the only proper objects of our resentment; but in the present case no such offender appears to be concerned, and therefore there can be no '*dignus vindice nodus.*'

Besides, Sir, I am still in some doubt, whether the unfortunate man who is now the chief object of your resentment, has been guilty of any thing that was really criminal. I shall readily admit that he departed from all the regulations prescribed by the act of parliament; but it is still a question, whether he did so with any malicious or fraudulent design. He alleges that he was under an apprehension of the subscriptions not filling; and that his not observing exactly the regulations prescribed, proceeded from the ardent desire he had to procure 100,000*l.* for the public, which to him seemed to be the chief design of the act. Is there any thing impossible or improbable in this allegation? On the contrary, common charity obliges me to believe it to be true, especially as I was myself under the same apprehension; and every one must, I think, allow, that if the people without doors had not been seized with a most extraordinary itch of gaming, the subscription could never have been filled for the last lottery, as every man who knew the difference between two and three must have seen, that the adventurers were, by the scheme, to pay 20*s.* for leave to play upon an equal chance for 40. Being then under this apprehension, and being at the same time desirous to have the design of the legislature answered, it was very natural for him to have the subscription books opened as soon as possible; for in such a state of mind he could not suppose, that the subscription would be filled in a week or two, much less in a day or two. And if he took the whole management upon him, it was because he is more conversant in such affairs than the other receivers, as they themselves acknowledged. The same reason may be given, why a great many more contributions were taken in at his office, than at that of any of the rest; and he has himself given another very good reason, because his office was next the door, consequently the first that every person who entered would apply to, and also that, it seems, where those who did apply met with the most dispatch; so that if dispatch at a public office be a commodity which always sells at a high price, one would think, that it is meritorious rather than criminal in this man, to give so much of it for nothing; for though the act directs that four receivers shall be appointed, it did not direct nor was it afterwards ordered, that the taking in of the subscriptions should be equally divided among them, or that no one of them should take in more than his equal share.

In short, Sir, as it does not appear that this receiver made or proposed to make any advantage to himself, other than the reward allotted him by the act, his taking upon himself more than his share of the management, or taking in the subscription, ought in charity to be imputed to his zeal to serve the public; and though this was attended with a misfortune, it ought not surely to be deemed criminal. The truth is, I believe, that the misfortune which afterwards ensued did not proceed from his not observing exactly the regulations prescribed by the act, but from the spirit then, and, I fear, still prevailing among the people, and consequently would have happened, had all the receivers observed those regulations as exactly as it was possible; but the nature of mankind is such, that when they meet with any mischance, they are apt to throw the blame of it upon any thing rather than their own conduct; and this unfortunate man's character being a little odious among the people, it was easy for the losing gamesters to fix the cause of their losses upon him, which of course raised the popular cry against him; but when a man of an odious character is brought before us on account of any particular crime, we ought to be extremely careful not to be thereby prejudged against him; or in-

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duced to make any encroachment upon our constitution, especially such a one as may hereafter be of dangerous consequence to the most innocent.

If it had been proved, Sir, that this man extorted a reward, or a share of the profits, from any one whose subscription he received, in an irregular and private manner, or from any one he allowed, or simply instructed how to subscribe for more than 20 tickets, it would have been a most heinous crime. I say simply, Sir, for I must think that it was mere simplicity and not art or cunning, that induced him to instruct any man how the act might be evaded, as the giving of any instruction was quite unnecessary, because it was what common sense must have taught every man who intended to subscribe for more than 20 tickets: and if the gentleman who received this instruction had paid, or promised, a reward for this or any other favour, I am persuaded, he would have declared it to the committee. Nor can we draw any presumption against this receiver from the great number of tickets sold, on the account of the gentleman now abroad; for as he was a broker of great business and an extensive correspondence, he could not fail of having commissions for a very great number of tickets, as well as daily commissions to sell; and he wisely employed another to sell for him, lest his appearing as a seller might have lowered the price in the alley.

But now, Sir, suppose that some flagrant crime had been proved against this unfortunate receiver, what benefit can the public reap from our interposing in such a trifling affair, and in some measure giving our authority for his conviction; for that the address proposed will be of great weight with the jury upon a trial at common law, is very certain? Can we expect that his conviction and punishment will deter others from being guilty of the like crimes, if you furnish them with an opportunity? Simple farmers we know hang up the skins of crows, rooks, and other birds in their corn-fields, to frighten such birds from destroying their corn; but had it ever any effect? So fox-hunters, who are no less simple, but much more hurtful than farmers, after having done a great deal of mischief by breaking down the fences of their neighbours, in pursuit of that less mischievous animal, hang up his skin at the door of their hen-roost; but I never heard that other foxes are thereby frightened: on the contrary, they often come and take the poultry from the very door where the skin is hung up. And we have heard of robberies being committed, almost under the very gallows where some former highwayman hangs in chains. This convinces me, Sir, that no good can be expected from the Resolutions proposed, and therefore I shall be against our agreeing to either.

Mr. *Charles Townshend:*

Sir; whether the hon. gentleman who spoke last was present when this affair was referred to a committee, is what I do not remember, but I must suppose he was not, because every thing he has now said, might then have been properly urged against our referring this affair to a committee, and was then not only urged, but answered to the satisfaction of a great majority of this House. It is therefore, now, I think, very improper to talk of the objects being below the dignity of this House, or of the dangerous consequences of our intermeddling in such a trivial affair, because it is arguing against a question which we have long since determined. When we referred this matter to a committee, we then determined, that the object, that is to say, the crime, was not below the dignity of this House, and that it was not a crime of a trifling nature, but of such a high nature as deserved the notice of parliament. For this reason we appointed a committee to enquire into it, and after the crime has been fully proved before that committee, shall we then stop short? Shall we shew no resentment against the convicted criminal? This, indeed, would be below the dignity of this assembly: this, without doubt, would be attended with the most dangerous consequences.

As to the doubt which the hon. gentleman seems to be under, whether the crime now under our consideration was committed with any fraudulent design, it can proceed from nothing, Sir, but his good nature, and his supposing an apprehension directly contrary to what was supposed by the legislature, when the act for establishing the lottery was under consideration; for when the regulations prescribed by the act were agreed to, surely the legislature did not suppose, that those regulations were such as, if duly observed, would render it impracticable to get the subscription for the lottery completely filled. But suppose this receiver of the subscription had in his great wisdom conceived an apprehension which, he knew, had not oc-

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curred to the legislature, would that justify his departing from every regulation prescribed to him? And when there was such an advantage to be made by departing from those regulations, have we not good reason to presume, that this conceited apprehension is a mere pretence, invented for covering a fraudulent design. Sir, the presumption is so strong, that, in my opinion, it would prevail against the most unblemished character; and much more ought it not to prevail against a character which the hon. gentleman himself seems to think a little odious?

If it could be said, Sir, that the directions prescribed by the act were such as it was impossible to comply with, or that the design of those directions was not manifest and publicly known, it might afford some excuse for a partial departure from them; but so far otherwise, the design of the legislature in prescribing those directions was manifest from the directions themselves, and every one of those directions might have been exactly complied with, and would have been complied with by any man who had no selfish or fraudulent intention. Such a man, by the advertisement in the Gazette, would have given sufficient time for all persons, at least in this kingdom, to be informed of the time and place when and where the subscription books were to be opened, and to send their orders to their correspondents, which would have required a fortnight or three weeks at least; and he would have absolutely refused to admit any man to subscribe but at the time and place appointed: in that time, by the applications made to him, and by his correspondence in the city, he might have formed some judgment of the number of tickets that would be wanted; and if from thence, or from the great crowd the first day, he had found that many more would be wanted than by the act were to be disposed of, he would not have admitted of any lists of names but from gentlemen whom he knew to be men of veracity and extensive correspondence, and who declared that the tickets were really for the persons mentioned in such list; for I must observe, that the receivers were not obliged, nay, I doubt if they were empowered, to admit of a list of names from any man, because the legislature certainly supposed that 20 tickets were as many as any man could desire, who had no intention to turn ticket jobber, which they were resolved if possible to prevent. This, Sir, I shall grant, would have made the filling of the subscription take up a longer time, but the receivers were not confined, as they had power to adjourn from day to day, and might have continued taking in subscriptions, or delivering out tickets until October 26, if the subcription had not been filled before that time; therefore a receiver who had no fraudulent intention, would have been very cautious of admitting any person to subscribe for more than 20 tickets, under pretence of giving a name for every 20 tickets he subscribed for, as this was apparently a method by which the act might be evaded, and the design of this restraint defeated; and he would have absolutely refused to admit any person to subscribe but at the place appointed, and within the hours during which the subscription books were by the advertisement to be kept open.

This, I say, Sir, would have been the method which a fair and honest receiver would have pursued in taking in the subscription, and executing the trust reposed in him by the public; but now let me suppose the receiver to be of a quite contrary complexion. Such a man, as soon as he had got himself appointed, would presently have examined the act, not with a design to observe it, but to evade it. He would have said to himself, it is true, the legislature designs that there shall be no jobbing of tickets, but considering the present prevailing itch of gaming, I know that great advantage may be made by such jobbing, therefore I am resolved to introduce it, and to have as great a share in it as I can. The way to do this is to throw the tickets into as few hands as possible, and chiefly into the hands of stock-jobbers; therefore, I must appoint as short a day as possible for opening the subscription books, and take care to have a great number of the tickets disposed of to my confederates before the books are opened: they will take care to raise the tickets to a premium, before the day appointed for opening the books, which of course will crowd the subscription, so that I may declare it full in a day or two; and this will raise the premium still higher. I may then, by entering a number of sham names, keep as many tickets as I please for myself and my confederates, and afterwards sell them out at as high a premium as we can raise them to by the arts usually practised in Change Alley; for after having once raised the spirit of gaming among the people, I know, by experience, that we may dispose of all

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the tickets we have reserved, at as high a premium as we can reasonably desire, though very probably many of the purchasers from us may be undone, as most of them will purchase more than they can bear to stand the chance of, and without any concert amongst themselves.

Now, Sir, I leave it to gentlemen to consider, whether from many circumstances it does not appear, that this, or something like this, was the soliloquy of the receiver whose conduct is now under our consideration; and as every part of this fraudulent scheme might have been, and probably was carried into execution, without his expressly joining in a confederacy or concert with more than one noted stock-jobber or broker, we cannot wonder at its being impossible for us to find evidence of his stipulating a reward, or a share of the profits, from any one of those whom he admitted to subscribe in an irregular and illegal manner. The breast of man, as a facetious poet long since observed, has no windows by which we may look into it, and see the motives upon which he acts; therefore we must judge of the motives from the circumstances attending the action; and when a man acts directly contrary to an express law, of which he cannot be supposed to be ignorant, surely, it is no breach of charity to presume, that he acted from a corrupt and fraudulent motive, when it is apparent that by such a transgression of the law he might expect to make a considerable advantage. Will any one say, that his receiving subscriptions in a private manner, and before the time appointed by the advertisement, was not a transgression of the law? It is true, the act says that the receivers might receive subscriptions and grant receipts before their receiving the books with the tickets from the managers; but it had before said that public notice should be given in the London Gazette, consequently no subscriptions were to be received, or receipts granted before the time appointed by that notice; and this very receiver appears to have been conscious that what he did was irregular, because the receipts he granted were dated on the day appointed by that notice, though issued by him some days before. This was therefore an open and wilful breach of the act of parliament; and his allowing people to subscribe for as many tickets as they pleased, upon their giving a sham name for every 20 they subscribed for, was still a more open and wilful breach, not only of the act but of an express direction he has himself confessed to have received.

Shall we, Sir, suffer a little under clerk in an office thus to violate an express act of parliament? Such a violation surely would deserve some punishment, even though no damage had from thence ensued, and though there could not be so much as a suspicion that it proceeded from any corrupt and fraudulent design; but when great damage has ensued, not only to the public, but to many private families, and when there is not only a suspicion but a strong presumption that it proceeded from a fraudulent design, and a design from which he has already in all probability reaped a considerable profit, the punishment ought certainly to be pretty severe, even in this country where punishments of all kinds are more moderate than in any other country under the sun. But if there were any foundation for the doctrine advanced by the hon. gentleman who spoke last: if punishment had no effect in preventing the commission of crimes, it must be allowed that, even in this country, our punishments are too frequent and too severe, or rather it must be allowed, that no punishment ought ever to be inflicted, as revenge is a passion that, without some view to this effect, ought never to be indulged. I shall grant that we sometimes hear of robberies committed under or near to the gibbet where some former highwayman hangs in chains; but the hon. gentleman himself must allow, that no future robbery can be committed by the man who is hanged and hung in chains; and that no man of common sense will take up a trade which, by being but once practised, may very probably put an end to his life, and at the same time strip him and his heirs of all he has got by his practice. I believe every one else will allow, that if no thief or highwayman were to undergo any punishment, burglaries and robberies would be much more frequent than they are: nay, it is certain, that in such a case no man could have any security for his property but in his sword. Punishment must therefore be allowed to have a considerable effect in preventing the commission of crimes; and in the case now before us it must surely be allowed, that if this man escapes with impunity, it will be a greater encouragement towards a repetition of the same sort of crime, than his meeting with condign punishment.

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For this reason, Sir, I think he ought to be subjected to some punishment if upon a regular trial he be found guilty; but I am against what was first mentioned by the hon. gentleman who introduced this debate: I think, our voting this unhappy man unfit to be ever hereafter employed in any place of trust under the government would be a punishment too severe; and besides it would, I think, be unconstitutional, as it would be passing sentence against a man without hearing him in his own defence. Therefore, I can approve only of the other method proposed: an address to his majesty to order his attorney-general to prosecute, is, I think, the best and indeed the only method we can regularly take; and it is certainly the most constitutional, as the proof of the facts will be thereby left to a jury of his countrymen, and the proportioning of the punishment will be thereby left to those who are by our constitution established as the judges in all such cases. This, Sir, I offer only as my humble opinion; and if the House seems to approve of it, I hope the hon. gentleman will rise up again and make the proper motion, in which I shall be ready to second him.

Mr. *Nicholas Fazakerley*:

Sir; I am so unfortunate as to differ in opinion from both the hon. gentlemen who spoke last, for, I think, we ought to agree to the Resolutions mentioned by the hon. gentleman who opened this debate. I think we ought not only to address his majesty to order his attorney-general to prosecute this receiver, who had so apparently made a job, and a very lucrative one too, I believe, of the trust reposed in him by the public, but also I think we ought to declare him unfit to be hereafter employed in any place of trust under the government. And as this is my opinion, however trifling this affair may appear to some gentlemen, I hope the House will allow me to give my reasons for being of this opinion. I was really surprised, Sir, to hear the hon. gentleman who first spoke in favour of the criminal now before us, so openly declare his having been against what was done by this House in the famous affair of Paxton; for the disappointment we met with in that affair has had such fatal effects, that no gentleman can now, I think, approve of his having been against any thing that was done, or proposed to be done, at that time. State crimes, Sir, and all crimes which are of the most dangerous nature with regard to the public, are generally first contrived by high criminals, but must be carried into execution by low tools and under agents: therefore it will always be impossible for this House ever to come at the original contrivers, unless these low tools and under agents be compelled as well as encouraged to make a full and true discovery of every thing they know; and if the Indemnifying Bill which was passed by this House at that time, but rejected by the other,* had been passed into a law, we might probably have made such discoveries, and inflicted such punishments as would have put an end to a practice of the most dangerous consequence to our constitution, which has been increasing ever since, and is now, I fear, increased so much as to be able to defend itself against every attack that can be made upon it; for the corruption and the virtue of a people always bear an exact proportion, consequently the more the former is increased the more the latter is diminished, the more able the one grows to sustain the attack, the less able the other grows to make it, the certain and never failing consequence of which is, that virtue at last quits the field, and then slavery assumes the sole possession: the mercenary slaves may sometime, indeed, become mutinous; but even their mutiny proceeds from corruption, and they emerge from one slavery only to be immerged in another.

From what I have said, Sir, we may see a good reason why the lowest clerk or under officer ought not to be below our notice, if the crime of which he is suspected be of a public nature, because in all such crimes high officers are generally behind the curtain, and ought to be drawn forth by parliament. This shews that it is not the rank of the criminal, but the nature of the crime we ought to have a regard to; and in all our enquiries into such crimes, I wish it were an established custom, to begin with an act of indemnity to such under agents as should discover their guilty principals. This would make it so dangerous for any high officer to have a concern in, or even to connive at any public crime, or at making a job of any public trust, that, I believe, we should hear of very few of them; for such jobs can never be carried on without a negligent connivance at least in some of our lords commissioners, and I am apt to suspect that the connivance is too often wilful if not

* See Vol. 12, p. 715.

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corrupt; because as most of our low offices are in the disposal of our lords commissioners, they may perhaps be willing enough that such offices should be made as lucrative as possible; and this, I fear, is the true reason why our government is forced to purchase every thing at so dear a rate, and why our navy funds are always kept so much in arrear. If such an indemnifying Bill as I have mentioned had been passed before we entered upon this enquiry, or if we had a standing law for this purpose, I believe we should have been able to make a much more ample discovery; for in an affair where the people have been cozened out of so many thousands, I cannot think that this receiver was the only criminal; I must say, I suspect that some persons of a much higher rank were concerned; and this suspicion lays a foundation for another, which is that he will soon again be employed in some place of trust under the government, unless prevented by a resolution of this House.

This, Sir, of itself alone, is a sufficient argument for our declaring him unfit to be employed in any place of trust under the government; but the hon. gentleman who has spoke in his favour, furnished us with another argument which is yet stronger. He told us that this man was otherwise a man of an odious character. This was indeed a very extraordinary argument, when made use of as an argument against our interfering in this affair; but it is an unanswerable argument for our resolving, that he is unfit to be trusted in any public business; for all those employed by the government ought to be like Cæsar's wife, not only innocent but free from suspicion; and such a resolution is not to be called a sentence, but an advice to the crown and a caution to our ministers, which we are intitled to give, which we may give without any enquiry, and which we ought to give when the person under consideration is known to be a man of an odious character. But suppose it were to be called a sentence, yet it cannot be said to have been passed without hearing the criminal in his own defence: he was heard before the committee: after a full hearing he was condemned by the committee, and we have already approved of their condemnation; for if there be any thing to be called a sentence in the present case, it consists in the Resolutions we have already agreed to, and the Resolutions now proposed can relate only to the punishment which we think ought to be inflicted upon the criminal we have already condemned.

After having thus set the first Resolution proposed in its true and genuine light, I must say, Sir, that I was surprized to hear it said by the hon. gentleman who spoke last, who judges so well upon most other occasions, that the punishment inflicted by such a Resolution would be too severe; for it is properly no punishment at all, but a prudential piece of advice which, though not agreed to, our ministers will, I hope, for their own sakes take care to follow. And what makes me the more sanguine for having this Resolution agreed to, is my foreseeing that, in consequence of the second Resolution, no adequate punishment can be inflicted. That in pursuance thereof he will be tried, I make no doubt, and I am almost certain that upon the trial he will be convicted of all or most of the transgressions contained in the Resolutions we have agreed to. This, I say, I am almost certain of, because we have now a full proof as to every one of them before us; and all these proofs, I hope, with some additions and explanations, will be repeated upon the trial; but what profits he made by these illegal and fraudulent practices it will be impossible to prove, and therefore, I believe, our judges will not think themselves at liberty to impose a fine any way equal to the profits he has probably made, or to subject him to any very severe corporal punishment. Now if a man by a fraudulent breach of trust should put 5 or 6,000*l.* clear money into his pocket, I leave to gentlemen to judge, whether a fine of 500 or 1,000*l.* with a few months imprisonment, could be deemed an adequate punishment, especially when we consider how conveniently a man who has plenty of money in his pocket may live in any one of our prisons. Can we suppose that such a punishment would any way contribute to prevent the repetition of such a crime, or that the next rogue who should meet with a like opportunity would in the least boggle at making a like use of it?

I do not mention this, Sir, with a design to propose any other method of proceeding; for as we have made no discovery of any criminal of superior rank, nor can expect any proper law for promoting such a discovery, I do not think it worth our while to proceed to a prosecution in parliament. Therefore I have shewn how little can be expected from the second Resolution, only to convince gentlemen who

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are resolved to agree to it, that they cannot from thence have any good reason for not agreeing to the first as well as the second Resolution proposed; and indeed, I think, we cannot with decency avoid agreeing to both. However, I shall be ready to submit to what shall appear to be the most general sense of the House upon this occasion.

All the Resolutions were then agreed to.

1754.

Motion for abolishing Oaths at Elections.] Feb. 7. Sir John Barnard moved, that several parts of an act made in the 2nd year of his present majesty's reign, intituled, 'An Act for the more effectual preventing Bribery and Corruption in the elections of members to serve in parliament,' might be read: and the same being read accordingly, he next moved, that leave be given to bring in a Bill to repeal so much of the said act as requires the electors of members to serve in parliament to take the oath therein mentioned, if demanded, before they are admitted to poll.—The reason sir John gave for his motion, was, that experience proved, that those oaths were of no manner of significancy, for the purposes they were intended to serve, and that they only opened a door for perjury. Though the House did not appear to dislike this motion, and though they seemed to admit the truth of sir John's observation, yet Mr. Pelham thought it was too dangerous an experiment to make all at once; and after some debate, in which the motion was enforced by a great many of the heads of the court-party, it was dropped.

*Debate in the Commons on the Bill for extending the Mutiny Act to the East Indies.**] February 8. A motion was made and leave given to bring in a Bill for punishing Mutiny and Desertion of officers and soldiers in the service of the company of merchants of England trading to the East-Indies, and for the punishment of offences committed in the East Indies, or at the island of St. Helena. On the 14th the Bill was presented to the House by Mr. Secretary at War, read a first time, and ordered to be read a second time on the Tuesday next, and all the members who were in or about the town were ordered to attend the service of the House on that day; and it was also ordered that all charters, commissions, and authorities, by which any powers, relative to a military jurisdiction, or to the exercise of martial law, had been granted, or derived from the crown, to the said company, should be by them laid before the House. Accordingly they were all laid before the House on the 18th: and on Tuesday the 19th the Bill was read a second time, and a motion being made for its being committed, the following Debate ensued:*

The Earl of *Egmont*:

Sir; I am glad to see the important affair now before us so well attended. I hope it is a sign that the nation is awakened out of that lethargy and inattention which we have been plunged into for so many years past, and which has been the cause of martial law being now so strongly grafted into our constitution. I say ingrafted, Sir; for though our sovereign had always a power to exercise martial law when necessity required, yet until after the Revolution it was so far from being a part of, that it was expressly contrary to, and inconsistent with our constitution; nor would our ancestors for that reason ever admit of any written martial law, so that necessity only could be pleaded as to the time, the place, or the manner of exercis-

* "On the 8th of February, Mr. Fox, secretary at war, and Mr. Hume, were ordered to bring in a Bill for punishing mutiny and desertion of officers and soldiers in the service of the company of merchants of England trading to the East Indies, or at the island of St. Helena. This Bill, which was confessedly of a very unusual nature, could only be justified by the necessity of it, and it met with a very strong opposition. All the members, who were in and about town, were ordered to attend the second reading of it; and it was also ordered, that all charters, commissions, and authorities, by which any powers, relative to a military jurisdiction, or to the exercise of martial law, had been granted, or derived from the crown, to the said Company, should be by them laid before the House. Accordingly they were all laid before the House on the 18th, and on Tuesday the 19th, the Bill was read a second time, and a motion made for its being committed, which, after long debate, was carried in the affirmative, by a majority of 245 against 50. Another debate happened, upon a motion made by Mr. Nugent, to render the Bill temporary, but that likewise passed in the negative, and the necessity for passing the Bill was so great, that it was sent to the House of Lords, on the 25th of February, where it met with no amendments, and on the 5th of March, it received the royal assent." Tindal.

* From the London Magazine.

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ing it; and indeed of old it was never exercised at any time, or in any place, when or where the jurisdiction of our common law courts could take place. Accordingly all our lawyers agree, that martial law was never to be exercised, but when the peaceable course of justice was stopt, and that it was not to be tried by a jury, but determined by the records and judges, whether justice at such a time, and in such a place had her equal course of proceeding, or no. So careful were our ancestors to prevent the exercise of martial law in this kingdom in time of peace, that in order to prevent as much as possible any pretence for its being necessary, a law was made in the reign of Henry 6, by which it was made felony for a soldier, engaged to serve the king in his wars, not to go with, or to depart from his captain without a licence; and such offences were expressly made cognizable by the justices of peace, according to the course of the common law; which law became necessary to be made at that time, because we were engaged in a heavy and unfortunate war in France, for the prosecution whereof many soldiers were daily listed here at home, and many of them, after having received the listing money, either refused to go, or afterwards deserted from the army in France and returned home; for neither of which offences they could be punished any other way than by a civil action for breach of covenant, therefore a new law for that purpose became necessary; but the legislature took care that the trial and punishment should be according to the course of the common law.

This law, Sir, was revived in the reigns of Hen. 7, and Hen. 8, and the benefit of clergy taken away from deserters, but still the trial was to be according to the course of common law; for until the reign of Edward 6, no countenance was given by any law to the punishment of any soldier even by the commander in chief, and then it was restrained only to such officers or soldiers as gave or received licences without the consent of the commander in chief, and extended only to imprisonment at his discretion. From that time until after the Revolution we had no other law for the punishment of any military offence, nor was martial law ever exercised in this kingdom in time of peace, that is to say, when the peaceable course of justice was not stopt by some invasion or rebellion; yet during the whole time of Charles and James 2, a body of regular troops were kept on foot under proper discipline, and without being guilty of any irregularities, for if they could not have been kept under proper discipline, I am sure, neither of these kings would have been at the expence of keeping them on foot; and if they had been guilty of any irregularities, I am as sure we should have heard enough of it from the anti-court writers of those days: nay, I am apt to suspect, that the irregularities committed by our troops soon after the Revolution, were underhand fomented by the private direction of some of our ministers at that time, in order to induce the parliament to agree to the first written law we ever had for establishing courts martial in this kingdom, which was the act passed in the 1st of William and Mary, intituled, 'An Act for punishing officers or soldiers who shall mutiny or desert their majesties' service.'

How dangerous, Sir, is any precedent that may in the least contribute towards the establishment of arbitrary power! For this precedent being once made, we have ever since had martial law annually established by parliament with very little interruption, except for about 14 or 15 months during the year 1691, and part of 1692, and except between three and four years after the peace of Ryswick; and what is still worse, the danger has been growing upon us ever since; for almost every year some new sorts of crimes, or some new sets of people, have been made liable to be tried and punished by martial law. In the first Mutiny Act, which, as I have said, was passed in the 1st of William and Mary, our courtiers were pretty modest, for no crimes were made liable to be tried by courts martial but mutiny, sedition, and desertion, and even for these crimes the courts martial had a power to inflict a less severe punishment than that of death; nor was any soldier to be deemed guilty of desertion, unless he actually left their majesties' service, so that if a poor fellow, on account of ill-usage, left the company he was in, and listed in another, he could not be tried or punished by a court-martial for desertion, or indeed for any other crime. Then, as to the persons subjected to martial law by this first Mutiny Act, they were only officers and soldiers mustered and in pay in the army within this kingdom only; and likewise as to the time of its continuance, this first act was very much confined, for it was not to continue in force but from the 12th of April to the 10th of Nov. following, so that

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I am apt to believe, the chief reason for passing it, or at least the chief reason made use of for inducing the parliament to pass it, was in order to enable his majesty to reduce Ireland, which was then almost entirely under the dominion of the abdicated king; and this was perhaps one of the reasons why so little was done during that summer towards the reduction of Ireland, or the relief of the distressed Protestants in that kingdom, in order that the same prevailing argument might be made use of for passing a new Mutiny Bill in the next session of parliament.

Before I have done with this act, Sir, I must further observe, that the king was not thereby enabled to establish any articles of war, with severe punishments annexed, to be of force in this kingdom; nor was the act of the 31st of Charles 2, against billeting of soldiers any way repealed, so that any ale-house or inn-keeper in this kingdom might have refused to allow any soldiers to lodge in his house. But the ice being once broke, and a precedent made, by the passing of this Bill, limited and confined as it was, and Ireland continuing in the same, or rather a worse state, at the beginning of the next session, a new mutiny Bill was got passed, much more extensive than the former; for all crimes relating to false musters were made liable to be tried and punished by courts martial, and it was made death for a poor soldier, let him be ever so ill used by his captain, to leave the company or regiment he belonged to, and list in any other company or regiment in his majesty's service. I do not by this remark mean, Sir, that soldiers ought to have leave to do so whenever they please, and without returning the listing money to their captains; but surely it is not a crime equally heinous with that of deserting the service, much less with that of deserting to the enemy; and the last is, I think, the only sort of desertion that should ever be punished with death. Then, as to the persons now made liable to martial law, their number was considerably increased; for all commissaries, muster-masters, pay-masters, agents, or clerks to any regiment, troop, or company, were now for several offences subjected to be tried and punished by courts-martial; and the act of the 31st of Charles 2, was so far repealed, that his majesty was empowered, and the constables were authorised, to quarter as many soldiers as they pleased, and for what time they pleased, upon every public-house in the kingdom, the keepers whereof were by this new act obliged to furnish the soldiers so quartered upon them, with dry lodgings, stable room for their horses, and with fire and water, and necessary utensils to dress their victuals. And lastly, as to the time of its continuance, this new act was made to continue for a whole year; so that it was almost in every respect more extensive than the former.

Thus, Sir, we may see how quickly this precedent in favour of arbitrary power was improved, and it has been improving ever since; but it would be tedious, and almost endless, to take notice of all the improvements and alterations that have been made in this annual perpetual law; therefore I shall only observe, that from its first appearance upon our records until after the peace of Utrecht, it was never passed but when the nation was involved in war abroad though not at home. At that remarkable æra, as the parliament did not meet till April 9, 1713, the mutiny act which had been passed in the former session had expired the 25th of March preceding, so that we continued without any Mutiny Act until July 25 following, and without any power in the crown, as it was then a time of profound peace both abroad and at home, to exercise martial law, by virtue of prerogative; and yet during that whole time no one officer so much as threatened to throw up his commission, nor did any of the soldiers of any regiment, troop, or company in the queen's service, so much as attempt to disband. This, Sir, is extremely remarkable, and it is the more remarkable, as there was then as violent and as well supported an opposition to the administration as ever was in this kingdom, and this opposition, with regard to the behaviour of the army, the more to be dreaded by our ministers, as it had at its head the most successful, the most favourite general, I believe, that ever lived and died a subject. This, I say, Sir, is extremely remarkable, because it shews how vain the hopes of some gentlemen are, who fondly imagine, that a standing army once fully established, with an ambitious prince at its head, would presently disband, should this House in any succeeding session refuse to pass a new Mutiny Bill of any kind.

It is true, Sir, that at the time I am speaking of, our ministers so far prevailed as to get a sort of Mutiny Bill passed in the ensuing session, but as it was the first that was ever passed when the nation was in peace abroad, as well as at home, no

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punishment to be inflicted by martial law was to extend to life or limb; and every soldier was after three years entitled to demand and have his discharge if he thought fit. But though this act was so moderate as to punishment and service, occasion was taken from the title of it, which was, 'An Act for the better regulating the forces,' to extend the power of courts-martial to a multitude of other offences; for by a clause in this act courts-martial were empowered to inflict corporal punishment, not extending to life or limb, on any soldier, for immoralities, misbehaviour, or neglect of duty. Which clause has been carefully continued ever since, and to this are owing the many cruel whippings we now daily hear of. Upon the expiration of this act at Lady day, 1714, we were again without any law for the exercise of martial law, until June 5, following, yet no disbanding ensued; and a new mutiny act of the same tenor with the former having then taken place, it was renewed in the first of the late king, but presently after, and in the same session, a new mutiny act was passed with all the terrors and severities of any former; and with a new and extraordinary clause for empowering his majesty by his sign manual to make and constitute articles for the better government of his forces, and inflicting penalties by sentence or judgment of courts-martial even here at home, and in time of peace; which clause has likewise been ever since continued, and is really carrying the exercise of martial law to its utmost extent; for it is in effect a law for enabling the king, by his sole authority, to make what laws he pleases for the government of his army; which we have, indeed, of late got in some degree limited; but considering the severity of some military punishments which do not extend to life, or limb, the limitation can have little or no effect; for we know that if a poor soldier happens to be near expiring before he has received the number of lashes allotted him, he is carried off and pampered up for a few days, in order to be made a new spectacle of military severity. Who would not suffer death rather than undergo such a punishment?

I shall not trouble you, Sir, with an account of the growth of this noxious weed which has already almost over-shadowed our constitution, any further than to take notice that the clause I have mentioned for allowing soldiers to demand their discharge after three years notice, was in the first of the late king made conditional, upon their giving three months notice of their intention; and in the very next mutiny act, which was passed the same session of parliament, this indulging clause was entirely omitted, as it has been ever since; from which time every listed soldier became a soldier for life, and so he still continues to be, unless he can obtain a discharge from his commanding officer, upon a proper agreement between them, and often, we may believe, upon as valuable a consideration as it is in his power to give. I must likewise take notice, that in most of our mutiny acts there has been a clause for declaring that a conviction or acquittal shall be a bar to any future trial for the same offence, yet of late years there has been introduced what they call a revision: that is to say, if the commander in chief does not like the acquittal or the sentence pronounced, he may order a revision of the trial, upon which an officer or soldier, who has been acquitted, may be condemned and shot; but as this affair has been so lately before the House, I need not take up your time with shewing what oppression and tyranny it may be the cause of.

I beg pardon, Sir, for giving you so much trouble, but I thought it necessary to shew the rise and rapid progress of the exercise of martial law in this kingdom, and shall conclude with observing, that though our first Mutiny Acts extended only to the land officers and soldiers within this kingdom, yet that of the 4th and 5th of William and Mary was made to extend to Jersey and Guernsey; that of the 8th and 9th of William was made to extend to all officers and soldiers in the marine service; that of the 13th of William was made to extend to Ireland as well as England, and indeed to all the forces his majesty should have on foot any where in the world; that of the 1st of queen Anne was made to include likewise all those belonging to the trains of artillery; and that of the 10th all the invalid companies; the second Mutiny Act of the 1st of his late majesty's reign was made to extend to Gibraltar and Minorca; and ever since the beginning of his present majesty's reign, our Mutiny Acts have been made to extend to all his majesty's dominions beyond the seas, besides all the places I have before particularly mentioned.

These extensions of our now written martial law, I say, Sir, I thought it necessary to mention, in order to convince gen-

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tlemen how cautious they ought to be in agreeing to any new extension of it, especially that of putting so dangerous a weapon in the hands of a company, whose first establishment was illegal, and who, as soon as they but supposed they had got a legal establishment, became oppressive, and soon after of dangerous consequence to the honour of parliament, nay, I may say, of the crown itself. Our East India Company, Sir, was first established by a charter from queen Elizabeth, and by that charter had granted them an exclusive trade to the East Indies, which was illegal, notwithstanding its being granted by that wise and gracious queen: they had a new charter from James 1, with the same exclusive privilege, and consequently as illegal as the former: from Charles 2, they had another new charter, still with the same exclusive privilege, and still illegal. However, they continued to enjoy this exclusive privilege, but exercised it with great caution, because even they themselves doubted the legality of it, as monopolizing charters of all kinds had been loudly complained of in parliament towards the end of queen Elizabeth's reign; therefore when the famous, or rather infamous Jeffreys was raised to the bench, they took an opportunity to have their exclusive privilege declared legal by him; for they were sure they had then a judge who would decide in favour of every thing that tended to exalt the power of the crown*.

What was the consequence, Sir? they began presently after to act in so oppressive a manner abroad, that great complaints were brought home against them, which they had influence enough to stifle, probably by the same means they practised for obtaining a new charter and act of parliament soon after the Revolution; for when their affairs were brought under the consideration of parliament in 1695†, it appeared, that they had bribed several members of parliament, and had attempted even to bribe the crown itself by an offer of 50,000*l.* and that for these corrupt purposes they had laid out a very large sum of money, and were to have laid out a much larger, in case their intended act had passed, amounting in the whole to between 3 and 400,000*l.* To this amount, I say, an actual discovery was made; and it is probable, that several other sums were laid out, or intended to be laid out by them, of which no discovery was ever made. Whether that company have ever since attempted any such practices, or what the many favours they have since received may have cost them, I shall not pretend to guess; but the discovery then made should make gentlemen cautious, lest, under the pretence of securing or promoting the trade of that Company, they should be drawn in to serve the ends of corrupt men.

I am far from supposing, Sir, that any such practices have been, or are intended at present, because the favour proposed to be granted them cannot be thought equal to such an expence. I am really of opinion, that it will do them an injury. The sending of any of his majesty's troops thither will of course draw the crown into all the contests they have happened, or may hereafter happen to have with the sovereign princes in the East Indies, which, I think, cannot redound to the profit of the Company, and may, I fear, some time or other, bring dishonour upon the crown of Great Britain; for if in the persons of those troops the crown should be affronted by the great Mogul, or any of his nabobs, I do not see how we could vindicate the honour of the nation, by compelling them to make satisfaction for any such affront. If a breach should ensue upon any such occasion, surely you would not accept of such a treaty, as the Company accepted of from the great Mogul a little before the Revolution, which put an end to the war that had been carried on between him and the Company, and which was really nothing but a pardon in such a haughty stile, that it was scandalous even for the Company to accept of it. Surely, I say, the crown could not put an end to any war with that prince in such a manner; and I doubt if it could ever be ended in any other. It is for this reason, that the French court have wisely taken care not to send any of their king's troops to the East Indies; for all the troops they have sent thither, are sent and kept up there in the name of the Company, though, perhaps, at the expence of the crown; because it is impossible ever to treat in the name of the crown with any of those eastern princes, who are haughty even to a degree of ridicule.

For this reason, Sir, I look upon the present measure of sending some of the

* For the Great Case of Monopolies, between the East India Company, Plaintiff, and Thomas Sandys, Defendant, see Howell's Edition of the State Trials, vol. 10, p. 371.

† See Vol. 5, p. 896.

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king's troops to the East Indies, to be a measure of the most dangerous consequence, not only to the Company, but to our trade to the East Indies, whatever new footing it may, or can hereafter be put on; and besides this, it will in several respects be found inconvenient. By the Bill now before us, the commander in chief of his majesty's forces, wherever any of them are employed, is to have the sole power of appointing courts martial, not only to try any of his own officers or soldiers, but also any of the Company's officers or soldiers that are sent upon the same command. Whether this be right or no, I shall not at present dispute; but can we imagine, that it will not occasion dangerous disputes between the Company's governors or officers, and his majesty's officers in that country? As these two corps are upon a different footing, and of a quite different character, a jealousy will naturally arise between them: the Company's troops will naturally be patronized by the Company's governors, and his majesty's troops will as naturally and probably more deservedly be patronized by his majesty's commander in chief. I say more deservedly, Sir, because, if I am rightly informed, there are some of the Company's officers of a very low character. One of them was formerly a trumpeter to a raree-shew in this country; and when he was discharged that honourable service, he listed himself in the Company's service as a common soldier; and I suppose was made an officer by one of their governors, for trumpeting to him better than any other man could do in that country. Another of them, I am told, was a low sort of barber, one of our shave-for-a-penny barbers, here in London: and another of them was a butcher here, and when he is not upon duty, I am told he still exercises his trade there. Can we think, that such officers will not be despised by gentlemen who have the honour to bear his majesty's commission? And as such men, when advanced, are both jealous and proud, frequent contests will certainly arise between them. These contests being patronized, as I have mentioned, will be of the worst consequence to the service, and may entirely ruin our affairs in that country, before advice of them can be sent home, and proper orders returned for putting an end to such contests.

Having mentioned the characters of some of the Company's officers in the East Indies, I leave it to gentlemen to consider, whether it be proper to intrust such men with a power of life and death over any British subject, especially in a country where the sentence is to be executed before it be approved by his majesty, and before he can have an opportunity to extend his mercy to an unhappy convict. Such officers may properly enough be entrusted with a power to kill the enemies of their country by the laws of war; but I am sure, Sir, it can never be proper to entrust them with a power to kill their fellow subjects by any law whatsoever. If our late accounts from thence can be relied on, they have shewn, that the first sort of trust may be very properly lodged in them; but this is so far from being an argument in favour of the Bill, that it is a strong argument against it. If the Company's troops have behaved so well without any military law, why should we subject them to one? Some few of them may, perhaps, have deserted; but can you altogether prevent desertion by any law you can make? Sir, the best way to prevent it, is good usage; and this Bill, if passed into a law, may encourage the Company to use their troops worse than they ever did heretofore. In every light, therefore, in which I can view this Bill, I think it not only unnecessary, but of the most dangerous consequence to the Company; and what is still worse, I think it of the most dangerous consequence to our liberties: for it is not only an extension of our written martial law; but as it is an extension without any limitation of time, it may be made a precedent for rendering perpetual our written martial law with regard to the troops in every part of the king's dominions, which to me is of itself alone a sufficient reason for being against the committing of the Bill.

Mr. Solicitor General *Murray*:

Sir; I do not rise up to follow the noble lord through the whole of his long argument; for, in my opinion, the most of what he said was quite foreign to the present question, which is plainly and in short this: are our East India Company to have troops in any of their forts or settlements in that country, or no? And I could not observe, that the noble lord said one word against this question. Indeed, it is so evident, that if the Company must have forts, they must have garrisons to defend those forts, that it is impossible for the wit of man to invent an argument against it. The Company must then have troops in

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that country, and if they must have troops, they must have martial law. Without such a law, there never was an army kept up, or sent out, in any part of the world. Even among the Romans, in the most flourishing time of their republic, their armies were subject to, and governed by a law very different from the civil law of their country, a law much more arbitrary than what we now call martial law; for we do not read of courts martial in any part of the history of that republic, because the commander in chief was vested with a sole, an absolute and arbitrary power, over every man in the army under his command. Accordingly we read, that the second Appius Claudius, by his own sole authority, caused several officers to be executed, and the rest of the army to be decimated, on account of their having seditiously allowed themselves to be defeated by the enemy; and that Manlius Torquatus, by his sole authority, caused his own son to be executed, for having fought and killed one of the enemy's chief officers, contrary to his orders: so likewise we read, Sir, that a few years afterwards, Papirius Cursor, by his own sole authority, condemned his master of the horse, or what we may call his deputy lieutenant, to be executed, because in his absence he had fought the enemy contrary to his orders, and that notwithstanding his having defeated and killed 20,000 of the enemy, from the execution of which sentence he was saved, not by the authority or the command of the republic, but by the prayers and entreaties of the senate, the tribunes of the people, and the army, enforced by the tears and lamentations of an aged and much honoured father.

From these examples, Sir, we may see how absolute and arbitrary the martial law of the Romans was, and from many examples, both ancient and modern, I could shew, that there never was an army any where kept up without martial law. It is, indeed, impossible to govern an army without martial law; and the only reason why we of old had no martial law in time of peace, was because we had then no army kept up; nor can it be said, that either Charles or James 2 governed their armies without martial law; for it is well known, that both of them exercised martial law by the same authority by which they kept up armies, that is, by an illegal and usurped use of prerogative; and the Bill now before us plainly shews how happy, how safe we are, under the government of his present majesty, who is so far from stretching prerogative, in any case, beyond its just bounds, that he never will make use of it, when there is the least doubt to be made, whether or no it be agreeable to our constitution. As the whole tenour of his conduct has been according to the known and established laws of the kingdom, so in every doubtful case he chuses to apply to his parliament for a new law when it becomes necessary, rather than to act by virtue of prerogative. It is this laudable moderation in his majesty that has given occasion for the Bill now under our consideration; for if his majesty had by his prerogative empowered the Company to exercise martial law, with respect to their troops in St. Helena and the East Indies, especially at this present time, I doubt if any of our lawyers would have given it as their opinion, that it was contrary to our ancient constitution; for before the Revolution it was always held as a maxim, that when the king had occasion to send or to keep regular troops any where beyond sea, even in Ireland, he might empower the commander to exercise martial law, and establish articles of war for that purpose; and so tenacious was the crown of this prerogative, that in the Mutiny Act of the 7th of queen Anne, and all the following mutiny acts of her reign, there was a clause inserted, for providing that the act should not abridge the power of the crown, as to the making of articles of war, and appointing courts martial, as might have been done before by the authority of the crown in places beyond sea in time of war.

Upon this maxim, Sir, is founded that power which all our colonies in America now enjoy; for every one of them has a power in time of danger to raise troops, and to proclaim martial law, for any time they think necessary, during which time the old maxim takes place; 'inter arma silent leges:' their civil laws from that moment give place to the martial, to which every man in the colony, able to bear arms, becomes liable; and why his majesty might not give a power to a number of his subjects settled in the East Indies, as well as to a number of them settled in the West Indies, to have regular troops in their service, and to exercise martial law over those troops, I believe it will be pretty hard to find a satisfactory reason; therefore, if we had now a prince upon the throne as fond of prerogative, and of exercising it upon every occasion, as most of

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our princes were before the accession of our present royal family, I am convinced, we should not have been troubled with the Bill now before us, because the whole that is proposed by this Bill would have been done by virtue of his majesty's prerogative, and without asking the advice or consent of either House of Parliament.

I hope it will now appear, Sir, that with regard to every place beyond sea, which has been included in any Mutiny Bill since the Revolution, it is so far from being an extension of the martial law, that it may very properly be called an addition to the privileges of the people; for no British subject, let him be settled where he will, can now be subjected to martial law, whilst he remains under the protection of the crown of Great-Britain, without his own consent. Nay, even our militia cannot now be subjected, I believe, to martial law, no not even in the case of an invasion or rebellion, without an act of parliament for that purpose. At least we may be well assured, that his present majesty will never attempt it, as no such thing was thought of during the late rebellion, notwithstanding the imminent danger we should have been in, had his royal highness and the troops from Flanders been detained but a few weeks by contrary winds. Then, Sir, as to the crimes and persons that have in any degree been subjected to martial law, since the passing of the first Mutiny Bill in 1689, neither of them can properly be called an extension of the martial law, but only a supplying of the defects that were in the first Mutiny Act, which, from the weakness of human wisdom must always be expected, when a new law is to be made for regulating any affair of so complicated a nature; and I am sure, it cannot be said, that any person, or any offence, has since been subjected to martial law, but what has an immediate relation to, or connection with the military.

But, Sir, however much our martial law may have been extended since the first Mutiny Act, surely what is now proposed cannot be said to be an extension of it with respect to this kingdom, nor can our constitution or liberties ever be in danger from the exercise of martial law, in the East-Indies; and as the noble lord did not so much as insinuate, that it was unnecessary for the company to keep any troops in their settlements there, he must allow that it is now become necessary to enable them to keep those troops under proper discipline. It is true, Sir, their troops have lately behaved very gallantly: considering what sort of troops they are, they have really done wonders; but we know that many of their common men have lately deserted; and we know that they have a near neighbour who will not only receive but encourage every deserter from them in particular. When we know that they are so powerfully attacked, can we refuse giving them all the assistance we can, either by laws or otherwise? For this reason, I think, we cannot enough applaud his majesty's assisting them with some of his troops. The sending of such troops thither can no way alter the course of transactions in that country; for though they are his majesty's troops, they will in every thing there act in the name of the Company, and consequently cannot involve the crown in any of the Company's disputes with the princes or nabobs upon that coast. It might as well be said, that the sending of our men of war there would involve the crown in those disputes, yet we know it never has, nor indeed ever can, because all transactions, with the great Mogul, or any other potentate in the East, are carried on in the name of the Company, and not in that of the crown. And as to the king's troops having any dispute with the Company's troops, we have experience for supposing, that no such thing can happen; because in the late war a much larger number of the king's troops were sent thither, without producing any such accident.

As to the character of the Company's officers, Sir, I really know nothing of it. They may be of such a low character as the noble lord has been informed: for it is not the first time that men of a very low original have risen to a high rank in an army, and it redounds to their honour, I think, rather than their discredit; but I was surprised to hear this piece of information come from his lordship; for if the officers be men of such a low original, what must we think of the common men? They must be the very refuse of Bridewell and Tyburn, and consequently cannot be kept in order without the most strict and severe discipline. This is, therefore, as strong an argument as can be urged in favour of the Bill now before us; and to say that a Bill for a perpetual Mutiny Act in the East-Indies, may be made a precedent for such another here at home, is really going such a long way for precedent, that I have not the least apprehension of any present, or future minister ever

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going so far from home; this I must look on as one of the most far fetched arguments that was ever made use of upon any occasion; and as no gentleman has a better talent than his lordship at finding arguments in favour of what he espouses, or against what he opposes, his making use of such an argument convinces me, that no good one can be found against this Bill; for which reason I shall be for its being committed.

Mr. *William Beckford:*

Sir; as there is no gentleman whose opinion in any question relating to our laws or constitution, I have a greater reliance upon, than that of the hon. and learned gentleman who spoke last, he has furnished me with an argument against the Bill now under consideration, which I think altogether unanswerable. If his majesty can, by his prerogative, exercise martial law in any place beyond sea where he has occasion to keep an army, or any number of troops, or if he can empower the East India company to do so, what necessity is there for our passing an act for that purpose? On the contrary, Sir, I think, we should never pass any act for that purpose, because if martial law is at any time, or in any place, to be exercised, it is better, and much safer, both with regard to our constitution, and with regard to those subject to it, that it should rest singly upon the authority of prerogative, than upon the authority of an act of parliament; for those entrusted with the execution of any power established by virtue of a prerogative only, will always act with more caution, than when the power is established by virtue of an act of the whole legislature; and the objection against every sort of military power, is, lest it should be so exercised as to become of dangerous consequence to our constitution, or oppressive upon those that are subjected to it. This is always a very material objection, Sir, and the great difference is, that when any act of military power is exercised by virtue of prerogative only, we are to judge of the objection after the power has been exercised; whereas, in the other case, we must judge of the objection at the time of granting the power; for after the power has been once granted by act of parliament, it is too late to say, that there was no necessity for the exercise of such a power, or for exercising it in such a manner; and every one, I believe, will allow, that necessity is the only good plea for every sort of military power, either at the time it is to be granted, or at the time it is to be exercised; but such is the weakness of human foresight that this plea can never be so clearly judged of at the time of granting, as it may be after the power has been exercised. And as we can so little foresee what necessity there may be for any military power proposed to be granted, or what effect it may have when granted, we should be the more cautious of granting any military power by such a Bill as this now before us, which seems to be designed as a perpetual law, or at least to endure as long as we shall have an East-India company.

I shall grant, Sir, that in the Roman republic, whilst they had any army in the field, the general of that army had a most absolute and arbitrary power; and the instances which the learned gentleman was pleased to mention, must shew how dangerous it is to grant such a power to any one man; but whilst that republic continued in full vigour, no one of their armies continued long in the field, and the moment they returned to the city, they became free from every sort of military power. Their distant conquests, indeed, obliged them at last to keep armies on foot for years together; but what was the consequence? Those very armies, in little more than a century, put an end to their constitution, and established a military and absolute power. This, Sir, has been the fate of all countries where the exercise of military power even in time of peace has been allowed; and yet it must be granted, that in time of war the exercise of such a power becomes necessary, which shews the beauty of our ancient constitution, and the consummate wisdom of our ancestors, who were too sensible of the weakness of human foresight previously to determine when, or where, or in what manner, such a power was to be exercised; but left the whole to depend upon the prerogative of the crown, and to be justified only by the necessity that occasioned it; for I must observe, that in time of peace, and when there is no prospect of any danger, the king has no power by his prerogative to establish martial law, no not even in any place beyond sea which belongs to the crown of Great-Britain. Even in such places it is only in time of war, or when there is a prospect of danger, that the king has, by his prerogative, a power to establish martial law, as appears from the proviso inserted in the Mutiny Acts passed in queen Anne's reign, which the learned

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gentleman was pleased to mention; for in that proviso the words, 'in time of war,' are always added; and it was upon this footing that all our colonies in America were first established; for with respect to every one of them a civil government was by the charter established, otherwise they had never prospered so well, or increased so much as they have done; but as they are at such a distance from the fountain of power, the king delegates so much of his prerogative to the governor, as to enable him to establish and exercise martial law, when the colony is engaged in war, or in any imminent danger of being attacked. Then, indeed, every man in the colony becomes subject to martial law; but this is never practised but in time of danger, nor continued longer than there is a just cause of fear; for otherwise it would be a just ground of complaint against the governor, and a malversation for which he would certainly be removed, if not punished. From whence we may see, that the exercising of military power or martial law, stands upon the very same footing in all our colonies in America as it does here at home; that is to say, it is exercised only by virtue of the prerogative royal when necessity requires it, and can be justified only by that necessity; and yet most of our colonies have carried on heavy wars, and some of them have repelled dangerous invasions, without any martial law established by an act of the British legislature; for with respect to the establishing and regulating a militia in each respective colony, they have a power to make, and every one of them, I believe, have made laws of their own for that purpose.

Whether the East India company have a power to make such laws, with regard to their settlements in the East-Indies, is not worth our while to enquire, Sir; because the crown may certainly grant them such a power, and as certainly will grant it as soon as desired, and it is their fault if they do not make a proper use of it when they have it; therefore I cannot comprehend why they should come to parliament for such an act as is now proposed. This gives me a suspicion that something more is intended by this act than at first view appears, either by the directors of that company, or the directors of those directors. However ridiculous the learned gentleman may think it to imagine or apprehend, that a perpetual mutiny act in the East Indies may be made a precedent for such another here at home, the apprehension is, in my opinion, far from being without a solid foundation. The same arguments may be made use of, for such another perpetual law with regard to Gibraltar and Minorca: the precedent may next be extended to all our colonies and plantations in America: from thence, it may be wafted over to Ireland, especially if the parliament and people of that kingdom should become a little refractory to any worthless tool, whom an overbearing prime minister here may be pleased to put in authority over them: and from Ireland this precedent may easily make its way to Great Britain. At the time of the Revolution, I believe, few, if any supposed, that the parliament would ever consent to the keeping on foot in this island a standing army of near 20,000 men even in time of the most profound tranquillity. Such an apprehension would then have been treated as too chimerical even for an inhabitant of Bedlam; yet who will now say, that such an apprehension would then have been either chimerical or groundless? And perhaps the time is not very remote when we shall be convinced by experience, that the danger of this law being made a precedent for such another here at home, was not so chimerical as it is now represented; for that something more is intended than is now expressed, I am induced to suspect, from every late circumstance of the company's affairs in the East Indies.

I say, Sir, from every late circumstance; for whatever powers the company have by their charter, whatever sort of power they exercise over their troops in the East-Indies, it is certain, that those troops have hitherto behaved extremely well; and if any of their common soldiers have lately deserted to the French, it is owing to the company having sent Swiss recruits to that country. It was so natural to suppose that some of them would desert to the French, that M. Dupleix said, when he heard of it, that he was very much obliged to our company for sending over recruits for the troops under his command: the choice of such men was really so preposterous, that it gives foundation for suspecting its having been done with design, in order to furnish a pretence for some such Bill as this now under our consideration. What effect such a law may have in the East-Indies, I shall not pretend to determine; but if such a law were made with regard to any one of our colonies in the West-Indies, and a military establishment thereby set up, to subsist in time of peace as well as war, I

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will say, that it would in a few years prove the ruin of the colony, or render it an easy prey to the French or the Spaniard; for commercial men and military men never did, nor ever can agree: industrious tradesmen and idle soldiers always despise one another; and the latter wherever they are established, will assume, or at least endeavour to assume the government. This produces frequent wranglings and a perpetual jealousy, so that they can never cordially agree in pursuing any one measure either of offence or defence; and that this may not be the consequence in the East-Indies we have no proof from experience: for the few troops we sent thither during the last war, remained such a short while in the country, and had so little to do with the affairs of the company whilst they were there, that no judgment can from thence be formed, of what may hereafter happen, from our having a continual military establishment in that country. Indeed, it is hard to guess for what purpose those troops were sent there, unless it was to convince the natives either of our want of conduct, or of our want of military force; for they were too few in number, and too scantily provided with every thing necessary in war, to succeed in the design they were said to have been sent on; and I wish this may not be the case of our now intended embarkation; for of all weak measures that of starving a warlike measure is the most foolish, the most ignominious and most destructive.

But supposing, Sir, our being fully convinced from experience, that the company's exercising martial law in the East-Indies, could be attended with no bad consequence to their affairs in that country, yet it could be no argument for our passing this Bill; because it ought to be a rule with every legislative assembly, never to make a new law which does not appear to be absolutely necessary; and if this be a general rule, it ought surely to be most religiously adhered to with respect to any new law for extending the exercise of military power. What necessity can there be for the new law now proposed? In time of war it is allowed, that his majesty may, by his prerogative, impower the company to exercise martial law; and in time of peace there can never be a necessity for the exercise of any such law; because even regular troops may be kept under strict enough discipline in time of peace by the civil power; as we may be convinced from the behaviour of the company's troops in the East-Indies, and from the behaviour of our troops here at home, in the reigns of Charles and James 2, when I am convinced no martial law was ever exercised; unless it was during the two Dutch wars, and during the insurrections in Scotland, or that under the duke of Monmouth in England. The officers might take upon them to correct the soldiers, perhaps pretty severely, for little irregularities or neglects of duty; but if any soldier had been shot or severely whipt by the sentence of a court martial, can we think that the long parliament in Charles the 2nd's reign, afterwards called the Pensionary Parliament, would not have taken particular notice of it, when they had the few troops kept up by that king under their consideration, and not only voted them a public nuisance, but sent one of their members to the Tower for saying, that the king might keep guards for the defence of his person? Or can we think that our coroners would not have taken notice of the death of such a soldier, and have had it brought in murder by their inquest; as they were then as well as now chosen by the county, and consequently cannot be supposed to have been at that time much under court influence?

From hence, Sir, and from the silence of all our historians, we have, I think, great reason to conclude, that from the year 1660 to 1689, or at least until after Monmouth's rebellion, there was no continued exercise of martial law, and yet the troops were not only kept in good order, but under exact discipline, as appeared from their behaviour presently after, both in Ireland and in Flanders. Thus, I think, it must evidently appear, that so far from there being at present any necessity for such a new law, as is proposed by this Bill, there never can be any necessity for such a law; consequently, I must think myself under a double obligation to be against it, first, because it is a new and unnecessary law, and secondly, because it is for a new and unnecessary extension of martial law, therefore I most heartily give my negative to its being committed.

Mr. *Charles Yorke*:

Sir; although I have not long had the honour of a seat in this assembly, I have had the pleasure to dip a good deal into the history and journals of parliament; but, in all my experience or reading, I never met with such a case as this debate presents to our view. That those who seem to be in a sort of opposition to the administration

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should argue for the use, and indeed, what I think the abuse of prerogative; and that the friends of the administration should be the only advocates against it, is a case that has, I believe very rarely if ever occurred. I say the abuse, Sir, for if I rightly understand what is meant by prerogative, it is a power always lodged by our constitution in the crown, something like that power given by the Roman republic to their consuls upon any sudden and dangerous emergency, 'ut dent operam, ne quid respublica detrimenti capiat.' Such, in my opinion, is that power which we call the prerogative of the crown; and I declare my opinion the more freely, as I know that if I am wrong, there are many gentlemen in this House who can set me right. According to this opinion, Sir, when it becomes necessary for the public safety to exercise any act of power not warranted by our statute or common law, and the emergency is so sudden, and the danger so pressing, as to admit of no delay, the king may then exercise that act of power by virtue of his prerogative; but if the affair will admit of so much delay as to afford him an opportunity to have a new law made for the purpose, he ought not to exercise that act of power by virtue of his prerogative. It would then be a wrong and precipitate use, and consequently an abuse of prerogative; because in every such case application ought to be made to parliament for a new law, either temporary or perpetual, as the parliament in their great wisdom shall judge most convenient.

In all cases therefore, Sir, where there happens to be a necessity for exercising any extraordinary act of power, and where the exercising of such an act of power may be put off for a short time without any great prejudice or danger to the public, I must look upon those to be the wisest and best ministers who advise their sovereign not to act by prerogative, but to wait for a new authority from parliament adapted to that particular case; and when such a regard is shewn to the authority of parliament, I must think that it would be very wrong in either House, to refuse giving his majesty such a power by act of parliament as might then appear to be necessary; for from such a refusal, an ambitious prince might take occasion to extend the prerogative far beyond the limits of our constitution. I hope the House will pardon my troubling them with what is premised, as I think it absolutely necessary towards determining the chief question now before us, which seems to be, whether his majesty can or ought now, by his prerogative, to establish articles of war, and appoint courts martial, or empower the Company to do so, in the East Indies. Upon this occasion it has on all hands been granted, that in time of war his majesty may establish articles of war, and appoint courts martial, to try and punish all offences against those articles either at home or abroad; but in time of peace, he cannot do so at home without the authority of an act of parliament, and whether he can do so abroad in time of peace has been made a question, even by those who argue against this Bill; which really seems to me something extraordinary, for by this very doubt, they shew the necessity of the law proposed to be enacted by the Bill now before us. The East India Company's troops have, it is true, been fighting, but neither the nation nor the Company are at war in the East Indies, or any other part of the world that I know of, unless it be against the wild Indians in Nova-Scotia. Therefore those gentlemen upon their own shewing must grant, that his majesty cannot by his prerogative exercise martial law in the East Indies, or empower the Company to do so; and consequently they must either admit the necessity of passing this Bill into a law, or they must say, that there is at present no occasion for exercising any sort of martial law in the East Indies.

Now, Sir, in order to see whether there be an occasion for the exercise of martial law in the East Indies, let us examine a little into the state of affairs in that country. Every one knows that the country called the coast of Coromandel, where there is one of our chief branches of trade, is divided among several Indian princes, some of whom incline most to be friends to the French, and some to us: as the French are every where very troublesome neighbours, they by their intrigues, spirited up the prince, who was their friend, to attack the prince who was our chief friend upon that coast, and who would have been entirely undone, and his dominions conquered, by means of the assistance which the French gave to his enemy, had our Company given him no assistance. What could our Company do in such a case? Had they quietly suffered their friends to have been ruined, they would have fallen into the utmost contempt among the natives; their enemies would have got pos-

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session of the whole country where their forts and factories are situated, and if they had openly attacked them, they would at least have interrupted their trade as much as possible, in order to encourage that of the French; therefore our Company wisely resolved to give an immediate assistance to their friends, and thus a war has been carried on in that country, for these three or four years, with various success, in which the French act as auxiliaries to one side, and our Company as auxiliaries to the other. This, Sir, is the present state of affairs in the East Indies, and if the exercise of martial law in time of war be ever necessary, surely it is necessary for us at present in that country, especially as the French troops employed against us, are as well disciplined, and as much under martial law, as any troops now in France.

The passing of some such Bill as the present cannot therefore, I think, Sir, be disputed by any gentleman who seriously considers the present posture of our affairs in the East Indies; for as to the question, whether the Bill should be made temporary or no, it cannot properly come before us until we go into a committee upon it. But so far give me leave now to say, that as long as regular troops are kept in constant pay, in any part of the world, so long, in my opinion, will the exercise of martial law be necessary; for there are multitudes of military offences of the utmost bad consequence to the service, that you cannot possibly punish by any sort of proceeding at common law, or by any statute now in force; and as new sorts of such offences are every day appearing, it would be endless to provide new laws for every one of them. Therefore, in all countries, even those that are the most tenacious of their liberties, some sort of martial law has been established and exercised even in time of peace, over those troops they found it necessary to keep in constant pay. And in all our colonies in America they not only are fond of having some regular troops kept among them, but of having those troops subjected to, and governed by martial law, neither of which is to be wondered at; for those troops save a great deal of trouble to their militia, and if they were not kept in better order than they could possibly be by their common law, or common law courts, they would find them very troublesome to the inhabitants.

As to the army illegally kept up, Sir, during the reigns of Charles and James 2, I am not so conversant in our old records, as now to produce any documents from thence, of its having been governed by martial law; but I am persuaded it was so, because if my memory serves me right, Mr. Rapin tells us, that towards the latter end of king James's reign, some officers were tried by a court martial for mutiny, and cashiered, on account of their having refused to take some Irish recruits into their regiment; and he mentions the trial by a court martial as a common occurrence, without any remark upon it, which he, who is so apt to make remarks, would not have omitted, if such a method of trial had at that time been new or extraordinary. In short, Sir, the martial law is so much a pendicle to an army, that wherever the one is kept up, we may justly presume that the other is practised, nor is it any proof to the contrary, that the Long Parliament, when they had the army under consideration, did not remonstrate against the holding of courts martial. The army itself was the butt of their resentment; they addressed to have it disbanded: had they succeeded in this, they had no occasion to take notice of the exercise of martial law; and as they did not succeed, they were perhaps willing enough to connive at the holding of courts martial; because the common soldiers were thereby kept from being so mischievous to the people as they would otherwise have been.

As little can it be said, Sir, that our coroners having taken no notice of the death of any soldier, condemned to die by a court martial, is a proof that no such courts were held; for desertion was not then perhaps a capital crime, and we do not read of any mutiny among the soldiers in either of these reigns; therefore it is probable that no soldier was, during either of these reigns, put to death by virtue of the sentence of a court martial; or if any were, I suppose the execution was appointed in some county where the coroners were such tools to the court as to take no notice of any military execution; for though coroners are chosen by the county, they continue in office during life, and consequently, might have been corrupted by the court after they were chosen by the county: or lastly, it may with great reason be supposed, that if any soldier was condemned to die by the sentence of a court martial, the sentence was executed within the verge of the court, where the county coroner has no jurisdiction; and it is not to be presumed, that the coroner of the verge would take notice of it.

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From all which, Sir, I think I have much more reason to presume, that martial law was exercised during the whole reign both of Charles and of James 2, than any one has to presume the contrary: and no one has yet attempted to prove by any authentic document that it was not. But I beg pardon for being so long upon this subject, as I think it has nothing to do with the present question; for supposing it should be made appear, that troops may in time of peace be governed without martial law, yet I have not heard any gentleman so much as suggest that this can be done when they are every day engaged, or liable to be engaged in action; and as this is the present condition of our troops in the East-Indies, some such Bill as this under our consideration, is now absolutely necessary; for which reason I hope it will be committed.

Lord *Strange:*

Sir; I am far from pretending to understand either our statute or common law, so well as the hon. and learned gentleman who spoke last; but if I have any right notion of our constitution, the exercise of prerogative stands upon a footing very different from what he was pleased to represent. Whether the prerogatives of the crown may not be comprehended under what is called the common law of this kingdom, I do not know; but it is certain, that the constitutional prerogatives of the crown are as well known as any branch of the common law; and it is as well known, that there are several acts of power which the king not only may, but ought to exercise by virtue of prerogative alone: and for the exercise of which it would be very improper to ask the authority of an act of parliament, let him have ever so favourable an opportunity for so doing. Suppose it should become necessary to declare war against some neighbouring potentate: do not we know, that our sovereign may do so by virtue of his prerogative, and without the authority of an act of parliament? Would it not be very improper to apply for such an authority upon any such occasion? So likewise we know, that the king may negociate and conclude a treaty of peace or alliance, by virtue of his prerogative alone; and that an application for an act of parliament for empowering his ministers to do so, would not only be unconstitutional, but it would, in my opinion, be very suspicious; therefore, if I were at such a time a member of either House, I should absolutely declare against it, because I should look upon it as a sort of fore-stalling the approbation of parliament, before all the circumstances could be fully known. And indeed, in all cases where the king may constitutionally act by prerogative, the previous interposition of parliament will generally be dangerous, because plausible reasons may be previously urged for obtaining our authority, which could not afterwards be urged, or not urged with equal weight, for obtaining our approbation; and as such reasons do not remain upon record, we could not afterwards condemn what we had before authorised, even though it should appear, that our authority had been obtained upon suggestions, that were absolutely false or groundless.

For this reason, Sir, I take it to be agreeable to the wisdom of parliament and the practice of our ancestors, never to interpose our authority in any case where his majesty may act by virtue of prerogative; and that he may by virtue of his prerogative authorize the exercise of martial law, wherever or whenever it becomes absolutely necessary, cannot, I think, admit of any doubt; but whether he can delegate this, or any other of the royal prerogatives, is a question not so easily determined. In one case of this kind, the other House has taken care of themselves, by a judgment lately passed after a very solemn hearing; I mean, the case of the late earl of Stair, who had got a power from the crown to pass the peerage in his family to any one he should appoint by his last will, which was, in effect, a power to create a peer. Accordingly he made use of this power, and appointed one to succeed him in the peerage who was not his next heir; but notwithstanding this appointment, the peerage was claimed by the next heir, and, after a long hearing, the other House determined, that the creation of peers was a prerogative inherent in the crown, which the king could not delegate to any one; in consequence of which the peerage was adjudged to belong to the next heir at law.*

I have therefore, Sir, the best authority to say, that the prerogative of creating a peer, is a prerogative which the king cannot delegate to any subject, much less to a company or corporation; and the prerogative of authorising the exercise of martial law, is surely of much greater consequence

* See Vol. 14, p. 266.

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than that of creating a single peer. This power may be safely trusted in the hands of the crown, because it is to be presumed that the king will never make use of it at any time, or in any place, but when or where it is absolutely necessary; and that he will never extend it further, or continue it longer, than is necessary; but no such presumption can lie in favour of any subject: on the contrary, it is to be presumed, that he would make use of it merely for increasing his own power, and oppressing every man who should dare to oppose or complain of his most arbitrary and tyrannical acts of power. I must therefore be of opinion, that to allow, and much more to authorise by act of parliament, the delegating of this power to any subject or society, is absolutely inconsistent with our constitution: nor can it be warranted by any thing that has been done with respect to our colonies or plantations in America; because in most of them the governor is appointed by, and in every thing acts by an authority directly derived from the crown: and in the others no martial law can ever be exercised but by an act of their legislature; so that it is properly the effect of the power they have to make by-laws for their own government and preservation; and the people themselves who are upon the spot, are the judges when the exercise of martial law becomes necessary, how far it shall be extended, and how long it shall be continued. But the case is very different with respect to a set of merchants sitting in their directorial chair here in London, who very probably may connive at a favourite governor's making use of martial law for the oppression of every man that has the misfortune to be within the limits of his government; and this is the more to be dreaded in the East-Indies, as no man can safely or easily remove from the place where he happens once to be settled, without leave from the governor or company: nay, it may, perhaps, be out of his power to communicate his complaint to any friend at home by letter; for there is no post by land, and ships may have orders not to receive or bring home any letters but such as are sent by the governor.

I must for these reasons, Sir, look upon the Bill now before us, as a Bill for a total alteration of our constitution; as a Bill of the most dangerous consequence with respect to what may hereafter be built upon this precedent; as a Bill that may in time to come be the cause of infinite oppression upon such of our countrymen as may hereafter go to reside in the East-Indies; consequently, as a Bill that may ruin our trade in that part of the world; and lastly, as a Bill highly unjust with respect to every man now in that country. It is, Sir, in my opinion, a total overthrow of our constitution, as it seems to establish it for a maxim, that the exercise of martial law may be necessary in time of peace as well as war; and as it enables the king to delegate one of the principal prerogatives of the crown to a set of men, I shall not say the most worthless, but certainly not the most honourable in this kingdom, both which are absolutely inconsistent with our constitution; and though I shall not pretend to set bounds to the power of the legislature, yet in all such cases I think we should follow the example of our ancestors, by saying, that before we can consider of any such matter, we must have a conference with those of our several counties and places who put us in trust; for as this answer was made by parliament to one of the greatest and best of our kings, who was just returned from subduing our enemies in Scotland, and preparing to go and subdue our enemies in France, no future king of this realm could take such an answer amiss from his parliament, but, on the contrary, would have reason to be pleased with it, because those who have a due regard for their trust from the people, will never fail in their duty to the king; as that king afterwards experienced in the memorable fields of Cressy and Poictiers.

Then, Sir, with regard to the precedent, no one can pretend to limit what may hereafter be built upon it. In all our late debates upon the army, I have never heard it suggested even by the most zealous advocates against a standing army, that this nation can ever be without a small number of regular troops; and if it be once established as a maxim, that martial law is absolutely necessary even in time of peace, for retaining such troops in their duty, and for making them observe an exact discipline, the next step will naturally be, a perpetual law here at home for punishing mutiny and desertion, and for the better payment of the army and their quarters; from which time we may expect, that our parliament, like the senate of Rome, will become nothing but an instrument in the hands of the sovereign, for giving the countenance of law to his most arbitrary acts of oppression, and for enabling some future British Tiberius or

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Nero to boast, that he has always made the laws of the land the rule of his government; for in the history of the Romans it is remarkable, that after the loss of their liberties, and the establishment of a military government, the more tyrannical the emperor was, the more submissive their senate always was to him.

As to the oppression, Sir, which this Bill, if passed into a law, may be the cause of, it must appear evident to every one who knows the method of proceeding in courts martial. In such courts the commander in chief, or governor, must always have great influence, and in the East Indies will probably have an irresistible influence; so that he will have an arbitrary power not only of life and death, but of torture, over every man belonging to the troops within his government. I say torture, Sir, for there are several sorts of military punishments which I must look on as a very cruel sort of torture; and whether this be a power fit to be trusted in the hands of perhaps a very low fellow of an East India governor, I leave to gentlemen to consider. It is a power, Sir, which the greatest general here at home never has; because in most cases the sentence of the court-martial must be laid before the king, and confirmed by him, before it can be put in execution; and though sentence of death may be passed for several very trifling sorts of crimes, yet we know, that, here at home, such a sentence is very seldom in time of peace carried into execution, because his majesty generally interposes with a mitigation, or a pardon; but in the East Indies there can be no room for any such royal and merciful interposition: the whole must be left to a cruel, perhaps a revengeful East India governor.

When I consider this, Sir, I must think that, if this Bill passes into a law, no one but a madman will ever engage as an officer or soldier in the service of our East India company; and this may not only prevent its being possible to supply their garrisons in that country, but it may have a fatal effect in case any of them should be attacked; for upon every such occasion it has been customary for all the clerks and writers belonging to the factory to take arms, and to serve as soldiers in defending the fort: but this can no longer be expected, as their engaging in such service will subject them to the martial law. Nay, it will be dangerous for any man to go over even as a clerk or writer in the company's service; for as most men love to extend their power as far as they can, the governor will probably take measures for obliging every clerk and writer to list himself in the troops, on purpose that he may have them all subject to his arbitrary rule. From all which I must conclude, that this Bill, if passed into a law, may prove the ruin of our trade to the East Indies, so far, at least, as it depends upon our having forts or garrisons in that country.

Lastly, Sir, as to the injustice of this Bill, it must plainly appear even from the Mutiny Act annually passed here at home; for it is always provided by one of the clauses of that act, that no man shall be deemed listed, or obliged to serve as a soldier, unless the second and sixth sections of the articles of war were read to him at the time of listing. Now as these two sections point out to him the extraordinary method of trial, and most of the extraordinary punishments which he becomes subject to, by listing as a soldier, after hearing them read, and taking the oath appointed in the third section to be taken by every soldier, he is most justly presumed to have submitted to this extraordinary method of trial, and to these extraordinary punishments, and consequently to have given up his birth-right as an Englishman, with his own free consent. Therefore, our having taken care to insert this proviso in every Mutiny Bill for so many years, is a proof of its being the opinion of parliament, that no man can justly be subjected to be tried by a court-martial, or to these extraordinary military punishments, without his own previous and free consent. But were these sections ever read to any man now in the service of the East India company as a soldier? Could any man suppose, that he was to give up his birth-right as an Englishman by listing in their service? Therefore, I will say, that if you deprive those men of their birth-right by a law *ex post facto*, you do them a manifest injustice even in your own already declared opinion, as the Mutiny Bill, which you have already passed in this very session, has this very clause in it.

This flagrant piece of injustice, Sir, you cannot avoid doing to those honest fellows who have so lately behaved so bravely as soldiers in the company's service, but by adding a clause for declaring every one of them free from all former engagements, and for obliging the company to be at the expence of bringing every man of them home, who shall not voluntarily and freely engage again in their service under the

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conditions prescribed by this act; but if you should add such a clause, I believe, the company would then be as sanguine for having the Bill rejected, as they now are for having it passed into a law; because by such a clause they would, I am apt to think, be obliged to bring home more soldiers than they could replace for two or three years to come; and it would saddle them with an expence they have never been much accustomed to; for whatever becomes of those poor men who list as common soldiers in the company's service, I have very seldom heard of any of them being brought home again at the company's expence, though they generally, at first, engage to serve but for three, five, or seven years; therefore the fox's observation upon the lion's den may most justly in this respect be applied to our East India company: "Quia me vestigia terrent omnia te adversum spectantia, nulla retrorsum."

What I have said, Sir, would, I think, be sufficient for dropping this Bill in the gentlest manner, even although some sort of necessity could be pleaded for its being passed into a law; but the only necessity that has been, or indeed can be pleaded for it, is founded upon a false maxim, though of late years adopted by too many amongst us, that without martial law, it is impossible, even in time of peace, to retain soldiers in their duty, or to make them observe exact discipline, which is contradicted by experience even in India itself; for the Company have long had troops in that country, without any complaint of their not doing their duty, or not observing exact discipline; and if fighting be a part of a soldier's duty or discipline, we have a recent example of their performing this part of their duty without being subject to martial law, perhaps more bravely than they will ever do after they are subjected to it. We are not therefore under any necessity of having recourse to the reigns of Charles or James 2, for proving, that troops may be kept in order without martial law; but if we were, the presumption is strong, that it was not usually exercised in either of these reigns, especially the former, otherwise we should find it frequently exclaimed against in the many virulent pamphlets then printed against the government; nor is Rapin's mentioning a trial by a court martial without any remark, a proof of its having been usual; for as he was a Frenchman born, he was not thoroughly acquainted with our constitution; and as he was bred in our army after the Revolution, he probably supposed that martial law was always an appendix to an army; which indeed it must be in time of war; but that it is not so in time of peace, we have an example from the reign of king William himself; for we had no mutiny act or martial law in this kingdom from the 10th of April, 1698, to the 20th of Feb., 1702, yet we had, during that whole time, a number of troops here at home, and their future behaviour under the duke of Marlborough shewed, that they had neither neglected their duty nor their discipline. I must therefore, Sir, look upon this Bill not only as unconstitutional, dangerous, and unjust; but absolutely unnecessary, and consesequently very unfit to be committed, much more to be passed into a law.

Colonel *Henry Conway*:*

Sir; there are two circumstances relating to the Bill now before us, which I am sorry and really surprised, to find so little attended to, because if they had been considered with due attention, I am convinced, it would have prevented any opposition to this Bill. One of the circumstances I mean, Sir, relates to the exertion of prerogative, and the other to the necessity of martial law upon some occasions, even when the nation is not actually engaged in any open and declared war. As to prerogative, I shall admit, that there are several acts of power which the king not only may, but sometimes ought to exert by virtue of prerogative alone, because it would be very improper, and even imprudent, to ask the previous advice or authority of parliament; but in all cases

* The Hon. Horace Walpole to Richard Bentley, Esq. March 2, 1754.

"We have had but one considerable day in the House of Commons. Lord Egmont, in a very long and fine speech (which I believe occasioned the reports with you of an approaching war), opposed a new Mutiny Bill for the troops going to the East Indies. Mr. Conway got infinite reputation by a most charming speech in answer to him, in which he displayed a system of military learning, which was at once new, striking, and entertaining. I had carried M. de Gisors thither, who began to take notes of all I explained to him: but I begged he would not; for, the question regarding French politics, I concluded the Speaker would never have done storming at the Gauls collecting intelligence in the very senate-house." Lord Orford's Works, vol. 5, p. 284.

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where there is the least doubt, whether the king can act by virtue of prerogative alone, and where the public can no way suffer either by the delay, or by divulging what is to be done, I think it is right in our ministers to advise the applying for the authority of an act of parliament; and I do think it one of the many glories of his present majesty's reign, that he has never neglected to ask the advice, or apply for the authority of his parliament, as often as it was consistent with the safety of the public, and not prejudicial to the measure resolved on.

Now, Sir, this is the very case at present under consideration; for in the first place it is doubted, whether his majesty can, by virtue of prerogative alone, authorize the exercise of martial law in the East Indies, as the nation is not at present engaged in any open and declared war in that country, nor, thank God! in any country in the world; and in the next place, if we were engaged in an open war, it is doubted, whether his majesty can, by virtue of prerogative alone, grant a commission to the court of directors of the East India Company, impowering them to authorize the exercise of martial law in any of their settlements; for it is in effect delegating his prerogative to that court, which the noble lord who spoke last not only doubted whether his majesty could do, but gave us a very good reason for his doubting; as it has, it seems, already been determined with respect to one of the prerogatives of the crown, that the king cannot delegate it to any subject: but no one, I hope, will say, that no prerogative of the crown can *pro hac vice* be delegated by authority of an act of parliament: even in the case of the late earl of Stair, if his lordship had got an act of parliament, impowering him to demise his peerage, as well as his estate, by his last will, the demise could not surely have been questioned, much less could it upon such a principle have been declared void by any court in the kingdom.

Therefore, Sir, from what has been admitted, even by those who oppose this Bill, it must be confessed, that if the exercise of martial law be at this conjuncture necessary in the East-Indies, it was right to advise his majesty not to do it by virtue of prerogative alone; and if it cannot be done by prerogative alone, it becomes necessary for us to pass this Bill into a law: this I say, Sir, is absolutely necessary, if the present situation of our affairs in that country makes the exercise of martial law necessary there, which leads me to the other circumstance I have mentioned relating to this Bill. That the exercise of martial law over our troops in foreign countries may upon some occasions become necessary, though the nation be not engaged in war, must be granted by every one who considers, that by treaties we are obliged to send a number of our troops to the assistance of some of our allies upon the continent, if demanded. Suppose then, that in pursuance of one of these treaties, his majesty should send 8 or 10,000 of our troops to the assistance of one of those allies then engaged in an open and bloody war; would it not be absolutely necessary for his majesty to form articles of war for the government of those troops abroad, and to grant a commission to their commander in chief, for holding courts martial for trying and punishing all crimes and offences as directed by those articles of war? That this would be necessary, I cannot think any gentleman will deny: how, then, can any gentleman deny this to be now necessary in the East Indies? The nation, it is true, is not there engaged in any war, but an Indian prince, our ally, is engaged, and our troops, as auxiliaries to him, are now engaged in a very hot and bloody war: if martial law, therefore, be always an appendix to an army in time of war, as the noble lord who spoke last was pleased to confess, it must now be an appendix to our army, or, if you please, the company's army, in the East-Indies. Whether in the case I have mentioned, his majesty could, by his sole prerogative, form articles of war for the government of the troops he sent abroad, and impower their commander in chief to hold courts martial, is a question of another nature. In my opinion, he could; because the words, "in time of war," inserted in the proviso of our old mutiny acts, relate, I think, to our troops, and not to the nation; and it is certain, that this has been the practice of all our sovereigns, when they sent any troops abroad to the assistance of their allies. But even this opinion of mine has been doubted of in this debate; and this very doubt becomes a strong argument for our passing the Bill, upon the principle I have already laid down, that every act of power should be warranted by the authority of an act of parliament, if there be the least doubt, whether it can constitutionally be exerted by virtue of prerogative alone.

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If by this Bill, Sir, the court of directors of the East-India company had been empowered to form articles of war, and to authorize the exercise of martial law in their settlements in the East-Indies, or in the island of St. Helena, without any authority from the crown, it might have been called in that respect a total alteration of our constitution; but as it is the king who by this Bill is to form articles of war, and by his commission to empower the court of directors of that company to authorize the exercise of martial law, the Bill can in no respect be deemed an alteration of, or a departure from our constitution. It is only a determination of that question which was before doubted of, by declaring, that the king may by commission delegate this prerogative of the crown to the court of directors of the East-India company; and as this commission will be during the king's pleasure, or may be revoked when he thinks fit, the two most material objections I have heard made against this Bill are thereby removed; for the power of exercising martial law is not granted to the company in perpetuity: it is only the prerogative of the crown that in this case is declared to be perpetual, as it is in every other, and is never to be delegated to the company but when the circumstances of affairs render it necessary. Thus the objection of the Bill being designed as a perpetual establishment of martial law is effectually removed; and from the same consideration we may see, that there can be no danger of the company's governors making an oppressive use of their power, because if they ever should, the king's commission to the company would be that moment revoked: nay, our ministers of state would think it incumbent upon them to have it revoked, as they might be made answerable in parliament if they knowingly suffered an oppressive use to be made of the king's commission; and this would be such a continual check upon the company that, I am persuaded, they would always be much more careful than they are at present not to allow, or any way connive at a governor's making an unjust or oppressive use of the power they entrusted him with; nor would it be possible for any governor to prevent an account of his conduct from being sent home and communicated, not only to the court of directors, but to the friends of the person he had oppressed, as there is such a frequent correspondence by country ships between the company's settlements in India, and so many ships returning every year to Great-Britain, as well as several other parts of Europe.

I hope I have now shewn, Sir, that there is no foundation for saying that this Bill is unconstitutional, or of any dangerous tendency either to our trade, or to any man that is now, or shall hereafter go to settle in the East-Indies; and as little foundation is there for calling it unjust, as every gentleman, I think, must grant, who attends to those words by which it is provided, that no military crimes shall be prosecuted or punished by virtue of this Bill, but such as shall be committed after the publication thereof in the company's principal settlements, and in the island of St. Helena, that is to say, in every place where the company have any soldiers; consequently no man, however criminal, can suffer by an act *ex post facto;* and surely, it cannot be deemed unjust to subject a criminal to a method of trial, or to a sort of punishment, he is made acquainted with, before he commits the crime for which he is to suffer; for otherwise we could never have made, nor can we ever make any alteration, either in the method of trial before a court martial, or in the sort of punishment to be inflicted upon any military crime, without having been, or without being guilty of injustice.

After having thus made it appear, Sir, that the Bill now before us can be attended with no bad consequence, and that the doubts which have been raised about the extent of his majesty's prerogative, together with the situation of our affairs in the East-Indies, have produced an absolute necessity for the Bill being passed into a law, I must add, that I was surprised to hear the martial law of this country so much exclaimed against as it has been in this debate; for as there is more lenity in the common law of this kingdom, than in that of any other, so our martial laws are much less severe than the martial laws of any other country. In France there are, by their articles of war, no less than 65 several sorts of offences that are capital: even in Holland there are 54 several sorts of offences declared by their articles of war to be punishable with death: whereas by our martial law there are not above five sorts of offences that can be punished with death, and even as to every one of them, the court-martial may, if they think fit, inflict a less severe punishment, as in time of peace they often do. Nay,

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we know, that after sentence of death has been passed by the court, it is in time of peace but rarely inflicted, I may almost say never; but when the crime is not only atrocious, but such a one as the criminal has been often guilty of.

I am therefore, Sir, far from being so much afraid of the establishment of martial law here at home, as some gentlemen in this debate have seemed, or, perhaps, affected to be: I believe one of the chief reasons most gentlemen have for not making our Mutiny Bill perpetual, is to indulge the notion some people have of our being, at one time or another, in a condition to subsist safely without any army at all: this is a notion which, I confess, I cannot indulge, when I consider the circumstances we are in, and the great number of regular troops which, I believe, will always be kept up by every one of our neighbours, especially those we have most reason to be jealous of. Yet nevertheless I should not be for passing a perpetual Mutiny Bill, nor can the Bill now before us, which, as I have shewn, is not itself perpetual, have any tendency that way; consequently I can have no reason against, but have a great many for its being passed into a law.

The question upon a division was carried in the affirmative by 245 to 50, and the Bill was committed for Thursday, when the House went through it, and ordered the Report next morning. Accordingly, on Friday the 22nd the Report was made, when a motion was made by Mr. Robert Nugent, for making the Bill temporary, which occasioned a new debate, and the question was upon a division carried in the negative, by 84 to 26. The Bill being read a third time and passed on the 25th, was sent to the Lords, where it was passed without any amendment.

*The King's Speech at the Close of the Session.**] April 6. His majesty put an end to the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"Nothing could have given me greater satisfaction at this time, than the unanimity and dispatch with which you have gone

* "In the beginning of March, this year, died Mr. Pelham, who, for some years past, had been considered as the first minister of his Britannic majesty. Great Britain, perhaps, never enjoyed such a state of political tranquillity, as it did while he was considered in that capacity; and, perhaps, he is the only instance upon record, of a minister who made great virtues serve in the place of great abilities. His native candour, instead of being (as is generally the case) effaced, was improved, by the many departments of business, through which he arose; and his being void of art, conciliated to him more friends than the most artful man ever gained. His apprehension, if not ready, was tenacious; and then it converted itself into resolution, in which he was immovable, though it was some time before it was fixed. His understanding was rather clear than bright, so that he seldom was deceived by the false glare of the medium, through which he perceived objects. He came early into life, and was a captain of dragoons in the action against the rebels in 1715, at Preston, and to the last he retained that openness of behaviour and conversation that is so peculiar to men of merit in that profession. Few private gentlemen were ever known to unite so much dignity and ease in their behaviour, as he did; and he retained a complacency of manners towards those with whom he differed, which even to them appeared to be so void of affectation, that he seldom failed to win them over. His long experience in business undoubtedly contributed greatly to his success; but he had about him a certain unreserve, which, from being captivating, when he was known, became irresistible even by his greatest foes. His disinterestedness was seen in the state of his private affairs, which, considering his natural frugality, the many great posts he had held, and the vast opportunities he had of making money, were but very indifferent at the time of his death. He was naturally grave; and no man was ever more, than he was, what he appeared to be. The share of learning he had, was rather useful than curious, but his general notions, both of men and things, were sound and judicious; and, once they were formed, they were unalterable. His great principle in government was to avoid party of every kind, but he thought that till the Revolution took place, the constitution was unsettled, and liberty very precarious. Though both his maxims and his principles were very different from those of sir Robert Walpole, yet he preserved so wonderful a decorum towards his character and memory, that he often declined to have his own measures vindicated, because they could not be so without impeaching sir Robert's conduct. Nothing remains to be added to the character of this valuable man, but that it was such, as was formed for the happiness of Great Britain, without hurting her honour." Tindal.

"Mr. Pelham was generally esteemed as a man of honesty and candour, actuated by a sincere love for his country, though he had been educated in erroneous principles of government, and in some measure obliged to prosecute a fatal system, which descended to

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through the business of this session. Though no particular point of extraordinary moment hath offered itself to your consideration, yet you have shewn the most attentive regard to every branch of the public service. As to foreign affairs, I shall say nothing at present, except, that it is my fixed resolution to do every thing in my power, to maintain the general tranquillity, and to adhere to such measures for that purpose, as I have hitherto pursued, in conjunction with the powers in alliance with me.

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him by inheritance. He deviated however from that maxim of his predecessor, which admitted of no contradiction from any of his adherents or fellow servants. That sordid deference to a minister no longer characterized the subordinate instruments of the administration. It was not unusual to see the great officers of the government divided in a parliamentary debate, and to hear the Secretary at War opposing, with great vehemence, a clause suggested by the Chancellor of the Exchequer. His death, in March 1754, was sincerely lamented by his sovereign, and also regretted by the nation in general, to whose affection he had powerfully recommended himself by the candour and humanity of his conduct and character, even while he pursued measures which they did not entirely approve." Smollett.

"Mr. Pelham had good sense, without either shining parts or any degree of literature. He had by no means an elevated or enterprizing genius, but had a more manly and steady resolution than his brother the duke of Newcastle. He had a gentleman-like frankness in his behaviour, and as great point of honour as a minister can have, especially a minister at the head of the Treasury, where numberless sturdy and insatiable beggars of condition apply, who cannot all be gratified, nor all with safety be refused. He was a very inelegant speaker in parliament, but spoke with a certain candour and openness that made him be well heard, and generally believed. He wished well to the public, and managed the finances with great care and personal purity. He was *par negotiis neque supra*: had many domestic virtues and no vices. If his place and the power that accompanies it, made him some public enemies, his behaviour in both secured him from personal and rancorous ones. Those who wished him worse, only wished themselves in his place. Upon the whole he was an honourable man, and a well-wishing minister." Lord Chesterfield.

"The death of Mr. Pelham was a great loss to his country and to his party. England being on the eve of a war with France, great exertions were necessary, and unanimity requisite to enforce those exertions, and to excite spirit and zeal among all orders of men in the kingdom. His loss to his party was almost irreparable; his integrity was universally acknowledged, his complacent temper and conciliating manners had cemented the discordant parts of his heterogeneous administration; his preponderating influence in the House of Commons repressed those ambitious spirits who aspired to the supreme direction of affairs, and his death opened a new scene of competition, which distracted the counsels of the cabinet.

"Mr. Pelham was succeded in the treasury by his brother the duke of Newcastle, who, though a nobleman of high honour, unblemished integrity, and considerable abilities, yet was of too jealous and unstable a temper to manage the House of Commons with equal address and suavity, and to guide the reins of government, without a coadjutor, at so arduous a conjuncture. The seals of chancellor of the exchequer and of secretary of state, vacant by the death of Mr. Pelham and the promotion of the duke of Newcastle, became the objects of contention. The persons, who now aspired to the management of the House of Commons, were Mr. Fox and Mr. Pitt, whose parliamentary abilities had for some time divided the suffrages of the nation; who had long fostered reciprocal jealousy, and who now became public rivals for power. Both these rival statesmen were younger brothers, nearly of the same age; both were educated at Eton, both distinguished for classical knowledge, both commenced their parliamentary career at the same period, and both raised themselves to eminence by their superior talents; yet no two characters were ever more contrasted.

"Mr. Fox inherited a strong and vigorous constitution, was profuse and dissipated in his youth, and after squandering his private patrimony, went abroad to extricate himself from his embarrassments. On his return he obtained a seat in parliament, and warmly attached himself to sir Robert Walpole, whom he idolised, and to whose patronage he was indebted for the place of surveyor-general of the board of works. In 1743 he was appointed one of the lords of the treasury, and in 1746 secretary at war, which office he now filled. His marriage, in 1744, with lady Caroline Lennox, daughter of the duke of Richmond, though at first displeasing to the family, yet finally strengthened his political connections. He was equally a man of pleasure and business, formed for social and convivial intercourse; of an unruffled temper and frank disposition. No statesman acquired more adherents, not merely from political motives, but swayed by his agreeable manners, and attached to him from personal friendship, which he fully merited by his zeal in promoting their interests. As a parliamentary orator, he was occasionally hesitating and perplexed; but, when warmed with his subject, he spoke with an animation and rapidity which appeared more striking from his former hesitation. His speeches were not

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"Gentlemen of the House of Commons,

"I return you my hearty thanks for the supplies which you have so cheerfully granted, and which are the more acceptable to me, as they have brought no new burden upon my good subjects.

"My Lords and Gentlemen,

"The time draws near, when the present parliament must determine by law; and it is my intention, very speedily, to call a new one: but it would be unjust to this not to give it a public testimony of my approbation. The many eminent proofs which you have given of your duty and affection to my person and government; of your zeal for this excellent constitution; and for the security of the present establishment, can never be forgotten by me. By your vigorous assistance, under the protection of the Divine Providence, I was

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crowded with flowers of rhetoric, or distinguished by brilliancy of diction; but were replete with sterling sense and sound argument. He was quick in reply, keen in repartee, and skilful in discerning the temper of the House. He wrote without effort or affectation; his public dispatches were manly and perspicuous, and his private letters easy and animated. Though of an ambitious spirit, he regarded money as a principal object, and power only as a secondary concern.

"Mr. Pitt, at an early period of his life, suffered extremely from the attacks of an hereditary gout; hence, though fond of active diversions, and attached to the sports of the field, he employed the leisure of frequent confinement in improving the advantages of his education, and in laying the foundation of extensive and useful knowledge, which he encreased during his travels by an assiduous attention to foreign history and foreign manners. He is generally represented as of a haughty, unbending and imperious temper, and too proudly conscious of his own superior talents; but they who thus characterise him, are ill acquainted with his real disposition. The repeated attacks of a painful disorder did not sour his temper, but rendered him more susceptible of the comforts of domestic, and the pleasures of social life. He was an agreeable and lively companion, possessed great versatility of wit, adapted to all characters and all occasions; excelled in epigrammatic turns, and light pieces of poetry, and even condescended to join in songs of mirth and festivity.

"On his return to England, he obtained a cornetcy of horse, which, with a small annuity from his family, was his only provision until he received a legacy of 10,000*l.* from the duchess of Marlborough. From family connections, and early habits, he formed strict intimacy with his school-fellows, Mr. Lyttelton and the Grenvilles; attached himself to lord Cobham, and became a partisan of Leicester-house. In 1736, he came into parliament for the borough of Old Sarum, and instantly commenced his opposition to the administration of sir Robert Walpole. His bitter invectives drew on him the resentment of the minister, and he was deprived of his cornetcy; but was recompensed by his own party with the appointment of groom of the bed-chamber to the prince of Wales. He continued in opposition until the arrangement of the Broad Bottom ministry, when all the friends of lord Cobham were gratified with places, except Mr. Pitt, who received the promise of some future employment when the king's antipathy could be removed. The attempt to introduce him into the office of secretary at war occasioned the temporary resignation of the Pelhams, which terminating in their re-establishment, Mr. Pitt was successively promoted to the posts of vice-treasurer of Ireland and pay-master of the forces.

"The views of Mr. Pitt and Mr. Fox were now directed to the same object; they had long been rivals for power, and candidates for fame. During the first eight years of their parliamentary career, they had opposed each other with warmth and acrimony: and though, from the establishment of the Broad Bottom ministry, they had concurred in the support of the same cause; yet they had given way to occasional bickerings and altercations, particularly in the progress of the Mutiny and Regency Bills. In the midst of these jealousies, however, they both exhibited striking proofs of their candour and reciprocal esteem: when Mr. Fox was designated by the public voice as successor to lord Chesterfield, Mr. Pitt made a voluntary offer of his influence and support; and Mr. Fox, in a confidential letter to sir Charles Hanbury Williams, mentions Mr. Pitt as 'a man whom he liked and admired.'

"In the struggle for power which ensued on the death of Mr. Pelham, the two rival candidates were disappointed: sir Thomas Robinson was nominated secretary of state, and Mr. Legge, after a short delay, chancellor of the exchequer." Coxe's Memoirs of Horatio Lord Walpole.

To the mild and amiable character of Mr. Pelham, Pope pays the following elegant tribute of applause in his Epilogue to the Satires:

> "Pleas'd let me own, in Esher's peaceful grove,
> Where Kent and Nature vie for Pelham's love,
> The scene, the master, opening to my view,
> I sit and dream I see my Craggs anew."

A superb edition of Lord Bolingbroke's Works, edited by Mallet, being published on the day of Mr. Pelham's death, gave rise to the following passage in Mr. Garrick's celebrated Ode:

> "The same sad morn to Church and State,
> (So for our sins 'twas fix'd by fate:)
> A double stroke was giv'n:
> Black as the whirlwinds of the north,
> St. John's fell genius issued forth,
> And Pelham fled to heav'n."

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enabled to put an end to an expensive though necessary war, by an honourable peace, which you have greatly contributed to preserve by readily and uniformly supporting my measures. You have gone farther; and, whilst the difficulties arising from the war were scarce over, seized the first opportunity to perfect one of the greatest works of peace, by concurring in the most proper means for a gradual decrease of the National Debt; and, at the same time, raising the public credit. You have also, by several new laws, laid a foundation to strengthen and advance the trade and commerce of my kingdoms. Such a series of wise and steady conduct cannot fail to recommend you to the good will and esteem of your fellow subjects, as well as mine. For my own part, I securely rely upon the loyalty and good affection of my people, and have no other aim but their lasting happiness."

On the 8th of April a proclamation was issued for dissolving the Parliament.

FIRST SESSION OF THE ELEVENTH PARLIAMENT OF GREAT BRITAIN.

*Meeting of the New Parliament.**] May 31, 1754. This day the New Parliament met at Westminster by commission. The Commons being sent for to the House of Peers, the Lord Chancellor said:

"My Lords, and Gentlemen of the House of Commons,

"By virtue of his majesty's commission now read, and in obedience to his commands, we let you know, that his majesty doth not think fit that we should declare the causes of your present meeting, until there be a Speaker of the House of Commons: and therefore it is his majesty's pleasure, that you, gentlemen of the House of Commons, do immediately repair to the place where the Commons usually sit, and there chuse a fit person to be your Speaker; and that you present the person who shall be so chosen to his majesty's commissioners here, for his royal approbation by the said commissioners, to-morrow, at twelve of the clock."

Then the Commons withdrew.

List of the House of Commons.] The following is a List of the Members of the House of Commons:

A LIST OF THE HOUSE OF COMMONS IN THE ELEVENTH PARLIAMENT OF GREAT BRITAIN, WHICH MET AT WESTMINSTER, MAY 31, 1754.

BEDFORDSHIRE. John earl of Upper Ossory of Ireland; died, a new writ ordered Nov.

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* "The time of the meeting of the new parliament now drawing near, and the probability of a war with France every day encreasing, his majesty, this summer, made a large promotion of general officers, and settled his ministry at home. The duke of Newcastle was continued at the head of the treasury, and the other commissioners were, lord Barnard, who was created earl of Darlington, Henry Legge, esq.; the lord Dupplin, and Mr. Nugent. Mr. Legge was made chancellor of the exchequer; sir George Lyttelton, cofferer of the household; the earl of Hilsborough was made controller of the same; Mr. George Grenville was made treasurer of the navy, and Mr. Charles Townshend a lord of the admiralty, in the room of lord Barrington, who was made master of the wardrobe; sir Dudley Ryder was made lord chief justice of the King's-bench, in the room of sir William Lee, lately deceased; and Mr. Murray succeeded him as attorney general, and the lord chancellor was raised to the dignity of an earl.

"As to the elections, they went very much in the same tract that had been laid out by Mr. Pelham, and his plan was strictly executed, so far as the government had interest. There was not in all England above 42 places where any opposition was made, and but few of those were obstinate; that of Oxfordshire being the most considerable. The other oppositions were mostly among the friends of the government, and few, if any, (excepting that of Oxfordshire) formed upon party principles; the words of Court and Country, which used to have such terrible effects, having now lost their influence, even amongst the lowest and most ignorant of the people. As soon as the writs were returned, it was thought proper, on account of some clauses in the Regency Bill, to call the parliament together." Tindal.

The Hon. Horace Walpole to Richard Bentley, Esq. Arlington Street, May 18, 1754.

"The parliament is to meet for a few days the end of this month, to give perfection to the Regency Bill. If the king dies before the end of this month, the old parliament revives, which would make tolerable confusion, considering what sums have been laid out in seats in this." Lord Orford's Works, vol. 5, p. 293.

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23, 1758.—Henry Osborn, uncle to sir George Osborn, bart. a vice-admiral of the blue squadron of his majesty's fleet.—Thomas Alston; eldest son of sir Rowland Alston, bart. to whose title he succeeded.

Bedford. R. Henley Ongley.—Francis Herne.

BERKSHIRE. Penyston Powney; a verdurer of Windsor forest; died, a new writ ordered, March 14, 1757.—Arthur Vansittart.—Henry Pye.

Windsor. Henry Fox; brother to lord Ilchester, and secretary at war. Made one of his majesty's principal secretaries of state; a new writ ordered, Nov. 14, 1755, he was re-chosen. Made paymaster-general to his majesty's land forces, guards, and garrisons; a new writ ordered, July 1, 1757, he was re-chosen.—John Fitzwilliam; brother to viscount Fitzwilliam, of Ireland, has a company in the foot guards, and a groom of the bedchamber to the duke of Cumberland. Made colonel of a regiment of foot in November 1755, and a major general in June 1759.

Reading. Charles visc. Fane, of Ireland.—William Strode; died, a new writ ordered, Nov. 13, 1755.—John Dodd.

Wallingford. R. Neville Aldworth.—John Harvey; a Welsh judge.

Abingdon. John Moreton.

BUCKINGHAMSHIRE. Sir W. Stanhope.—Richard Lowndes.

Buckingham. Geo. Grenville; treasurer of the navy, and next brother to earl Temple; again made treasurer of the navy; a new writ ordered, December 2, 1756, he was re-elected.—James Grenville; second brother to earl Temple; a commissioner of trade and plantations; deputy paymaster-general of the land forces, and receiver of the crown and fee farm rents for the counties of Leicester, and Warwick. Made a commissioner of the treasury, a new writ ordered, Dec. 2, 1756.—Wm. Pitt; one of his majesty's principal secretaries of state; before in this parliament for Aldborough, Yorkshire. Made his election for Oakhampton, and chose to sit for that place, a new writ ordered Jan. 8, 1757.—James Grenville.

Chipping Wycombe. John earl of Shelburne; created lord Wycombe, baron of Chipping Wycombe in the county of Bucks, a new writ ordered, May 21, 1760.—W. lord viscount Fitzmaurice; eldest son of the earl of Shelburne; a captain in the army.—John Waller; died, a new writ ordered, Dec. 1, 1757.—Edmund Waller.

Aylesbury. Thomas Potter; son of the late archbishop of Canterbury; principal register of the province of Canterbury; appointed paymaster-general of the land forces, guards, and garrisons in Great Britain; a new writ ordered, Dec. 4, 1756, he was re-elected; appointed one of the vice-treasurers of Ireland; a new writ ordered, July 1, 1757, he was chosen for Oakhampton.—John Wilkes.—John Willis; eldest son of lord chief justice sir John Willis; filazer for London and Middlesex, in the court of Common Pleas.

Agmondesham. William Drake.—Isaac Whittington; one of the six clerks in chancery.

Wendover. Ralph earl Verney, of Ireland.—John Calvert.

Great Marlow. Daniel Moore.—Charles Churchill.

CAMBRIDGESHIRE. John marquis of Granby; eldest son of the duke of Rutland; a colonel in the army; made a major-general in March 1755; colonel of the royal regiment of horse guards in 1757; a lieutenant-general in March 1759, and lieutenant-general of the ordnance; commander in chief of his majesty's forces in Germany in August the same year; sworn of the privy council in December 1789.—Philip lord visc. Royston; eldest son to the earl of Hardwicke; a teller of the Exchequer.

Univ. of Cambridge. Tho. Townshend; brother to lord viscount Townshend; a teller of the Exchequer.—Edw. Finch; brother to the earl of Winchelsea; a groom of his majesty's bedchamber; appointed master of the robes; a new writ ordered, June 9, 1757, he was re-elected.

Town of Cambridge. Thomas lord visc. Dupplin; eldest son to the earl of Kinnoul; a commissioner of the treasury, and chairman of the committees of privileges and elections; made paymaster-general of the land forces in Great Britain; a new writ ordered, December 16, 1755, he was re-elected; made chancellor of the duchy of Lancaster; a new writ ordered, Jan. 24, 1758, he was re-elected; succeeded his father as earl of Kinnoul; a new writ ordered, Nov. 23, 1758.—Soame Jenyns; a commissioner of trade and plantations; in this parliament before for Dunwich.—Thomas Bromley; only son to lord Montfort, on whose death he succeeded to the peerage; a new writ ordered, Jan. 7, 1755.—C. Sloan Cadogan; only son of lord Cadogan.

CHESHIRE. Chas. Cholmondeley; died, a new writ ordered, April 5, 1759.—Thomas Cholmondeley.—Samuel Egerton.

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Chester. Sir Robert Grosvenor; died, a new writ ordered, November 13, 1755.—Thomas Grosvenor.—Richard Grosvenor; eldest son to the other member, he was, April 9, 1761, created lord Grosvenor of Eaton in Cheshire.

CORNWALL. Sir John Molesworth.—James Buller.

Launceston. Sir George Lee; dean of the arches, judge of the prerogative court of the province of Canterbury, and treasurer to the princess dowager of Wales; died, a new writ ordered, December 20, 1758.—Sir John St. Aubin; voted not duly elected, Feb. 21, 1759.—Peter Burrell; a director of the South Sea Company; voted duly elected, and ought to have been returned, Feb. 21, 1759.—Humphry Morrice; appointed one of the clerks comptrollers of the board of green cloth; a new writ ordered, May 5, 1757, he was re-elected.

Leskard. Edmund Nugent; made a captain in colonel John Craufurd's regiment of foot; a new writ ordered, November 22, 1759.—Philip Stephens; second secretary to the admiralty.—Philip Stanhope; his majesty's resident at Hamburgh.

Lestwithiel. James Edw. Colleton.—Sir T. Clerke; appointed master of the Rolls; a new writ ordered, Dec. 2, 1754, he was re-elected.

Truro. Edward Boscawen; next brother to lord viscount Falmouth; a commissioner of the admiralty, and vice-admiral of the white squadron of his majesty's fleet; afterwards made vice-admiral of the red, and admiral of the blue; general of the marine forces, and one of his majesty's most honourable privy council; died, Jan. 10, 1761, no new writ issued.—John Boscawen; third brother to lord viscount Falmouth; has a company in the foot guards, and groom of the bedchamber to the duke of Cumberland; made colonel of a regiment of foot.

Bodmyn. Sir William Irby; chamberlain to the princess dowager of Wales; on the dissolution of this parliament he was created baron Boston of Boston in the county of Lincoln.—George Hunt.

Helston. Francis Godolphin.—John Evelyn; one of the clerks of the household to the prince of Wales.

Saltash. William visc. Duncannon; son of the earl of Besborough; a commissioner of the admiralty; made a commissioner of the treasury; a new writ ordered, Dec. 4, 1756; he was chosen for Harwich.—Charles Townshend; second son of viscount Townshend; treasurer of the chamber.—George Clinton; uncle to the earl of Lincoln; admiral of the blue.

Camelford. Samuel Martin.—John Lade; created a baronet of Great Britain, March 14, 1758; died, a new writ ordered, May 17, 1759.—Bartholomew Burton; a merchant in London, and a director of the bank.

Westlooe. John Frederick.—Wm. Noel; chief justice of Chester; made one of the puisne judges of the court of Common Pleas; a new writ ordered, May 5, 1757.—William Trelawney; a captain in the navy.

Grampound. Merrick Burrell; deputy governor of the bank of England.—Simon Fanshaw; one of the clerks of the household to the prince of Wales.

Eastlooe. John Buller; comptroller of the Mint.—Francis Gashry; treasurer and paymaster of the ordnance.

Penryn. Richard Edgecumbe; eldest son of lord Edgecumbe; appointed a commissioner of the Admiralty; a new writ ordered, Dec. 22, 1755, he was re-chosen; made comptroller of his majesty's household; a new writ ordered, Dec. 1756, he was re-chosen; succeeded to the peerage on the death of his father, a new writ ordered, November 25, 1758.—John Plumtree.—Geo. Boscawen; second brother to viscount Falmouth; colonel of a regiment of foot, and lieutenant-governor of the Scilly islands.

Tregony. William Trevanion; auditor of the duchy of Cornwall.—Jn. Fuller.

Bossiney. Edwin Sandys; eldest son to lord Sandys; made a commissioner of the admiralty; a new writ ordered, April 6, 1757, he was re-elected.—Edw. W. Montagu, jun.

St. Ives. George Hobart; son of the earl of Buckinghamshire.—James Whitshed.

Fowey. Jonathan Rashleigh.—George Edgecumbe; second son of lord Edgecumbe; a captain in the navy, and clerk of the council to the duchy of Lancaster.

St. Germains. Edward Eliot; receiver-general of the duchy of Cornwall; made a commissioner of trade and plantations; a new writ ordered, Jan. 14, 1760, he was re-chosen.—Anthony Champion.

St. Michael's. Robert Clive; not duly elected.—Simon Luttrell; found duly elected, and ought to have been returned, March 24, 1755.—John Stephenson; not duly elected.—Richard Hussey; found duly elected, and ought to have been returned, March 24, 1755.

Newport. John Lee.—Edward Bacon;

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appointed steward of the three Chiltern Hundreds in the county of Bucks; a new writ ordered, June 18, 1756; he was chosen for Norwich.—Rd. Bull.

St. Mawes. Robert Nugent; made his election for Bristol; a new writ ordered, December 2, 1754.—James Newsam; took the name of Craggs this parliament.—Hen. S. Conway; brother to the earl of Hertford; colonel of a regiment of dragoons, and principal secretary to the lord lieutenant of Ireland; appointed a groom of the bedchamber to his majesty; a new writ ordered, November 26, 1756, he was re-elected.

Callington. Sewallis Shirley; uncle to earl Ferrers.—John Sharpe; solicitor to the treasury; died, a new writ ordered, December 2, 1756.—Fane Wm. Sharpe.

CUMBERLAND. Sir John Penniington.—Sir James Lowther; died, a new writ ordered, January 15, 1755.—Sir William Lowther; died, a new writ ordered, April 27, 1759.—Sir William Fleming; died, a new writ ordered, April 6, 1757.—Sir James Lowther.

Carlisle. Sir C. Howard; brother to the earl of Carlisle; colonel of a regiment of dragoons; governor of Inverness and Fort Augustus, and K. B.—John Stanwix; governor of Carlisle, deputy quartermaster-general of the forces in South Britain; and ranks as a lieutenant-colonel in the army.

Cockermouth. Sir John Mordaunt; cousin to the earl of Peterborough; colonel of a regiment of dragoons; governor of Sheerness; lieutenant-general, and one of his majesty's equerries.—Percy Wynd. O'Brien; brother to the earl of Egremont; appointed a commissioner of the treasury; a new writ ordered, Dec. 19, 1755, he was re-elected; created earl of Thomond in Ireland, November 29, 1756; made treasurer of his majesty's household; a new writ ordered, July 1, 1757, he was re-elected, and sworn of the privy council.

DERBYSHIRE. Lord George Cavendish; next brother to the duke of Devonshire.—Sir Nathaniel Curzon; soon after the dissolution of this parliament, he was created baron Scarsdale, of Scarsdale in Derbyshire.

Derby. Lord Fred. Cavendish; third son to the duke of Devonshire; lieutenant-colonel of a regiment of foot.—George Ven. Vernon.

DEVONSHIRE. Sir Wm. Courtenay.—Sir R. W. Bampfylde.

Exeter. John Tuckfield; John Rolle Walter.

Totness. Sir John Strange; master of the Rolls; died, a new writ ordered, Dec. 2, 1754.—Sir Richard Lloyd; solicitor-general to his majesty; made one of the barons of the Exchequer; a new writ ordered, November 15, 1759.—Richard Sav. Lloyd.—Browse Trist.

Plymouth. Will. W. visc. Barrington; keeper of the great wardrobe; appointed secretary at war; a new writ ordered, November 15, 1755, he was re-elected.—Samuel Dicker; died, a new writ ordered, January 14, 1760.—George Pocock; vice-admiral of the red; ereated K. B. and made admiral of the blue in 1762.

Oakhampton. Sir G. Lyttelton; cofferer of his majesty's household; made chancellor and under treasurer of the Exchequer; a new writ ordered, Nov. 23, 1755, he was re-elected; called up to the House of Peers as lord Lyttleton, baron of Frankley in Worcestershire; a new writ ordered, Dec. 4, 1756.—William Pitt; one of his majesty's principal secretaries of state; before in this parliament for Buckingham; made steward of the three Chiltern Hundreds in the county of Bucks; a new writ ordered, July 1, 1757; he was chosen for Bath.—Thomas Potter; one of the vice treasurers of Ireland; before in this parliament for Aylesbury; died, a new writ ordered, November 14, 1759.—George B. Rodney; rear-admiral of the blue squadron of his majesty's fleet.—Robert Vyner, jun.

Barnstaple. John Harris.—George Amyand.

Plympton Earle. George Treby.—Wm. Baker; knighted.

Honiton. George Yonge.—Henry R. Courtenay; brother to sir William, afterwards lord viscount Courtenay; died, a new writ ordered, Nov. 15, 1763.

Tavistock. Richard Rigby; made a commissioner of trade and plantations; a new writ ordered, December 22, 1755, he was re-elected; made master of the Rolls in Ireland; a new writ ordered, January 12, 1760, he was re-elected.—Jeffery French; died, a new writ ordered, December 2, 1754.—Richard Vernon.

Ashburton. George visc. Middleton; of Ireland.—John Harris; master of his majesty's household; died, a new writ ordered, November 27, 1767.

Dartmouth. Walter Carey; clerk of the board of green cloth; clerk in ordinary of the privy council, and a privy counsellor in Ireland; died, a new writ ordered, May 11, 1757.—Richard Howe; next brother to lord viscount Howe of the kingdom of Ireland, to whose titles

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he succeeded in July 1758; a captain in the navy; in 1759 made a colonel of marines.—John Jefferys; appointed warden of the Mint; a new writ ordered, December 2, 1754, he was re-elected; made deputy ranger of St. James's and Hyde Parks.

Beeralston. Sir Francis H. Drake; ranger of Dartmore forest, and clerk of the board of green cloth.—John Bristow.

Tiverton. Sir W. Yonge; one of the vice-treasurers of Ireland; died, a new writ ordered, November 15, 1755.—Thomas Ryder; appointed steward of the manor of Old Shoreham; a new writ ordered, December 2, 1756.—Nathaniel Ryder; only son to the late lord chief justice, sir Dudley Ryder, knt.—Henry Pelham; appointed a commissioner of the customs; a new writ ordered, June 19, 1758.—Sir Edw. H. Montagu.

DORSETSHIRE. George Pitt.—Humphry Sturt.

Poole. Sir Rich. Lyttelton; a colonel in the army, and brother to sir George Lyttelton, bart.; appointed master of the jewel office; a new writ ordered, December 4, 1756, he was re-elected; made a major-general in 1758.—Joseph Gulston.

Dorchester. Joseph lord Milton; of the kingdom of Ireland; son in-law to the duke of Dorset.—John Pitt; a commissioner of trade and plantations; appointed one of the commissioners of the Admiralty; a new writ ordered, Dec. 4, 1756, he was re-elected.

Lyme Regis. Francis Fane; a commissioner of trade and plantations; died, a new writ ordered, June 6, 1757.—Henry Fane; one of the chief clerks of the privy council.—Thomas Fane.

Weymouth and Melcombe Regis. Lord John Cavendish; third brother to the duke of Devonshire.—Welbore Ellis; a commissioner of the admiralty; appointed one of the vice-treasurers of Ireland; a new writ ordered, December 23, 1755, he was re-elected.—George Doddington; clerk of the pells in Ireland; appointed treasurer of the navy; a new writ ordered, Dec. 23, he was re-elected; soon after the dissolution of this parliament, he was created baron Melcombe of Melcombe Regis in Dorsetshire.—John Tucker.

Bridport. John Fred. Pinney.—Thomas Coventry.

Shaftesbury. Sir Thomas Clavering.—James Brudenell; brother to the earl of Cardigan.

Wareham. John Pitt.—William A. Pitt; the double return made at the general election to the 11th parliament, was by the House declared a void election, and a new writ ordered, Dec. 19, 1754.—William Aug. Pitt; a major of dragoons, afterwards promoted to be a lieutenant-colonel.—Henry Drax.—Thomas Erle Drax; the double return made at the general election to the 11th parliament was by the House declared a void election, and a new writ ordered, Dec. 19, 1754.—Henry Drax; died, a new writ ordered, November 13, 1755.—Edward Drax.

Corfe Castle. Henry Bankes.—John Bond.

DURHAM. Henry lord visc. Barnard; eldest son of the earl of Darlington; has a company in the foot guards; succeeded his father as earl of Darlington; a new writ ordered, March 10, 1758.—Raby Vane; second brother to the earl of Darlington; a captain in the navy.—George Bowes; died, a new writ ordered, Nov. 20, 1760.—Robt. Shaftoe.

Durham. John Tempest.—H. Lambton.

ESSEX. Sir John Abdy; died, a new writ ordered, April 10, 1759.—Sir W. Maynard.—William Harvey.

Colchester. John Olmius.—Cha. Gray; not duly elected.—Isaac Martin Rebow; found duly elected, and ought to have been returned, March 13, 1755.

Malden. Robert Colebrook.—John Bullock.

Harwich. John Phillipson; surveyor-general of his majesty's works; died, a new writ ordered, Dec. 3, 1756.—Wm. lord visc. Duncannon; eldest son to the earl of Besborough; a commissioner of the treasury; in this parliament before for Saltash; succeeded his father in the peerage, a new writ ordered, Dec. 20, 1758.—Thomas Sewell.—Wenman Coke.

GLOUCESTERSHIRE. Thomas Chester.—Norborne Berkeley.

Gloucester. George A. Selwyn; surveyor of the meltings of the Mint, and register of the Court of Chancery in the island of Barbadoes; appointed paymaster of the board of works; a new writ ordered, Dec. 22, 1755, he was re-elected.—Charles Barrow.

Cirencester. Benjamin Bathurst; eldest son of lord Bathurst.—John Dawney; brother to lord visc. Downe of the kingdom of Ireland, to which title he succeeded on his brother's death in 1760.

Tewkesbury. John Martin.—Nicholson Calvert.

HEREFORDSHIRE. Edward lord Harley; succeeded his father as earl of Oxford and

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earl Mortimer; a new writ ordered, April 18, 1755.—Sir John Morgan.—Velters Cornewall.

Hereford. Cha. F. Scudamore; master of his majesty's tennis court, groom porter, and cursitor in the Court of Chancery in Ireland.—John Symons.

Leominster. Sir C. H. Williams; envoy extraordinary to the court of Russia; died, a new writ ordered, November 20, 1759.—Chase Price.—Richard Gorges.

Weobly. Savage Mostyn; a captain in the navy; a comptroller of the navy; made a rear-admiral of the blue; made a commissioner of the Admiralty; a new writ ordered, April 6, 1757, he was re-elected; died, a new writ ordered, December 1, 1757.—Geo. V. Vernon, jun.—John Craster.

HERTFORDSHIRE. Paggen Hale; died, a new writ ordered, April 11, 1755.—William Plumer.—Charles Gore.

St. Albans. James Grimstone; eldest son of lord viscount Grimstone of the kingdom of Ireland, to whose title he succeeded in December 1770.—James West; joint secretary to the treasury.

Hertford. Nathaniel Brassey.—George Harrison; died, a new writ ordered, December 6, 1759.—George lord visc. Fordwich; son to earl Cowper, afterwards earl Cowper.

HUNTINGDONSHIRE. John lord Carysfort; of Ireland; a commissioner of the Admiralty; a new writ ordered, April 6, 1757, he was re-elected.—Coulson Fellowes.

Huntingdon. Edward Montagu.—Robert Jones; a merchant in London, and an elder brother of the Trinity House.

KENT. Lewis M. Watson; brother to lord Monson; one of the auditors of the imprest; called up to the House of Lords by the title of baron Sondes of Lees Court in the county of Kent; a new writ ordered, May 22, 1760.—Sir Wynd. Knatchbull.—Robert Fairfax; brother to lord Fairfax of Cameron in Scotland, afterwards lord Fairfax.

Canterbury. Sir James Creed; a merchant in London, and a director of the East India Company.—Matthew Rob. Morrice.

Rochester. John Byng; uncle of lord viscount Torrington; admiral of the blue; died, a new writ ordered, March 22, 1757.—Isaac Townshend; admiral of the white, and master of Greenwich Hospital, and an elder brother of the Trinity House.—Nicholas Haddock.

Maidstone. Heneage lord Guernsey; eldest son of the earl of Aylesbury, to whose title he succeeded; a new writ ordered Dec. 1, 1757.—Saville Finch; cousin to the earl of Aylesford.—Gabriel Hanger.

Queenborough. Sir Piercy Brett; a captain in the navy.—Charles Frederick; surveyor-general of the ordnance, and comptroller of the laboratory at Woolwich; made a K. B. in 1761.

LANCASHIRE. J. Smith, lord Strange; only son of the earl of Derby; lord lieutenant and Custos Rotulorum of this county; appointed chancellor of the duchy of Lancaster; a new writ ordered, Dec. 7, 1762, he was re-elected.—Peter Bold.

Preston. Nicholas Fazakerley — Edmund Starkie.

Lancaster. Francis Reynolds; died, a new writ ordered, Dec. 15, 1758.—Edward Martin. — George Warren; made a K. B. in 1761.

Newton. Peter Legh.—Randal Wilbraham.

Wigan. Richard Barry; uncle to the earl of Barrymore; a master and commander in the navy.—Sir William Meredith.

Clithero. Tho. Lister.—Asheton Curzon.

Liverpool. John Hardman; died, a new writ ordered, Dec. 11, 1755.—Ellis Cunliffe; created a baronet, March 24, 1759.—Thomas Salusbury; died, a new writ ordered, March 12, 1756.—Charles Pole.

LEICESTERSHIRE. Sir Thomas Palmer.—Edward Smith.

Leicester. George Wright.—James Wigley.

LINCOLNSHIRE. Robert Vyner.—Tho. Whichcot.

Lincoln. George Monson; second son to lord Monson; a lieutenant in the foot guards.—John Chaplin.

Boston. Lord Robert Bertie; uncle to the duke of Ancaster and Kesteven; a lord of the bedchamber to the prince of Wales, and colonel of a regiment of foot.—Charles Amcotts.

Great Grimsby. William Lock.—John Gore.

Stamford. John Har. Thursby.—Robert Barber; a clerk of the privy seal, and clerk of the council of the court of requests.

Grantham. Lord George Manners; third son to the duke of Rutland.—Sir John Cust; clerk of the household to the princess dowager of Wales.

MIDDLESEX. Sir Wm. B. Proctor.—George Cooke; chief prothonotary in the Court of Common Pleas.

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Westminster. Edw. Cornwallis; brother to earl Cornwallis; colonel of a regiment of foot; groom of the bedchamber to his majesty; made a major-general.—Sir John Crosse.

London. Sir John Barnard; an alderman of London; lord mayor in 1738.—Slingsby Bethell; an alderman of London; lord mayor in 1756; died, a new writ ordered, Nov. 23, 1758.—Sir Richard Glyn; an alderman of London; lord mayor in 1759.—Sir Robert Ladbroke; an alderman of London; lord mayor in 1748.—William Beckford; an alderman of London.

MONMOUTHSHIRE. William Morgan.—Capel Hanbury.

Monmouth. Benjamin Bathurst; brother to lord Bathurst; out-ranger of Windsor forest.

NORFOLK. George Townshend; eldest son of lord viscount Townshend; afterwards a colonel in the army; brigadier-general in North America, and colonel of a regiment of foot; made a major-general in March 1761.—Armine Wodehouse; eldest son of sir Armine Wodehouse, bt. to whose title he succeeded May 2, 1777.

Norwich. John lord Hobart; eldest son of the earl of Buckinghamshire; appointed comptroller of his majesty's household; a new writ ordered, Dec. 22, 1755, he was re-elected; succeeded his father as earl of Buckinghamshire; a new writ ordered, Dec. 2, 1756.—Harbord Harbord; eldest son of sir William Morden Harbord, bart. and a K. B.—Horace Walpole; brother to the late earl of Orford; a teller of the Exchequer, and auditor-general of the plantations; called up to the House of Peers by the title of baron Walpole of Wolterton in the county of Norfolk; a new writ ordered, June 18, 1756.—Edward Bacon; before in this parliament for Newport, Cornwall; a commissioner of trade and plantations; in 1758 he was chosen chairman of privileges and elections in room of viscount Dupplin, and was continued in the same important trust during the 12th and 13th parliaments, when in the 3rd session of the last, the justly-celebrated Grenville act passed, by which contested elections ceased to be tried at the bar of the House.

Lynn-Regis. Sir John Turner.—Horace Walpole; succeeded his father as lord Walpole of Wolterton; a new writ ordered, Feb. 16, 1757.—Horace Walpole; third son to the late earl of Orford; usher of the Exchequer; comptroller of the pipe office, and clerk of the estreats in the Court of Exchequer; in this parliament before for Castle Rising; afterwards earl of Orford.

Yarmouth. Sir E. Walpole; second son of the late earl of Orford; clerk of the pells in England; and clerk of the pleas in Ireland.—Charles Townshend; second son of lord viscount Townshend; appointed treasurer of the chamber; a new writ ordered, December 4, 1756, he was chosen for Saltash in Cornwall.—Charles Townshend; nephew to lord viscount Townshend.

Thetford. Lord Henry Beauclerk; uncle to the duke of St. Albans; died, Jan. 6, 1761, no new writ issued.—Charles F. Scudamore; made his election for the city of Hereford; a new writ ordered, Dec. 2, 1754.—Herb. R. Westphaling.

Castle-Rising. Thomas Howard; second son of the earl of Suffolk and Berkshire; a counsellor at law.—Horace Walpole; third son of the late earl of Orford; usher of the Exchequer, &c.; made steward of the three Chiltern Hundreds; a new writ ordered, Feb. 16, 1757, he was chosen for Lynn-Regis.—Charles Boon.

NORTHAMPTONSHIRE. Sir Edmund Isham; assessor to the deputy earl Marshal.—Valentine Knightley; died, a new writ ordered, Dec. 2, 1754.—William Cartwright.

Peterborough. Edw. W. Montagu; uncle to the earl of Sandwich; died, Jan. 22, 1761, no new writ issued.—Matthew Lamb; created a baronet, January 17, 1755.

Northampton. George Compton; brother to the earl of Northampton, to whose title he succeeded; a new writ ordered, Dec. 2, 1754.—Charles Compton; brother to the earl of Northampton; died, a new writ ordered, Nov. 27, 1755.—Richard Blackwell.—Charles Montagu; died, a new writ ordered, May 30, 1759.—Frederick Montagu.

Brackley. Marshe Dickinson.—Thomas Humberstone; died, a new writ ordered, Nov. 13, 1755.—Sir Wm. Moreton; recorder of the city of London.

Higham-Ferrers. John Yorke; fourth son of the earl of Hardwicke; clerk of the crown in the Court of Chancery; appointed clerk to the commission of bankrupts; a new writ ordered, Dec. 22, 1755, he was re-elected.

NORTHUMBERLAND. Sir Wm. Middleton; died, a new writ ordered, Dec. 1, 1757.—George Delaval.—Sir Henry Grey.

Newcastle upon Tyne. Sir Walt. Blacket.—Matthew Ridley.

Morpeth. Thomas Duncombe.—Robert Ord; made chief baron of the Exchequer in Scotland; a new writ ordered,

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November 23, 1755.—Sir M. Fetherstonhaugh.

Berwick upon Tweed. Thomas Watson.—John Delaval.

NOTTINGHAMSHIRE. Lord Robert Sutton; second son of the duke of Rutland; colonel of a regiment of light horse.—John Thornhaugh; took the name of Hewet in this parliament.

Nottingham. G. Aug. visc. Howe; of Ireland; has a company in the foot guards, and aid-de-camp to the duke of Cumberland; made colonel of a regiment of foot, and a brigadier-general in North America; killed near Ticonderago; a new writ ordered, Nov. 28, 1758.—William Howe; second brother to the deceased member; a lieutenant-colonel in the army.—Sir Willoughby Aston.

East Retford. John White.—John Shelley; appointed keeper of the records in the Tower; a new writ ordered, Nov. 15, 1755, he was re-elected; appointed clerk of the pipe; a new writ ordered, January 28, 1757, he was re-elected.

Newark. John Manners; made keeper of his majesty's palace of Whitehall; a new writ ordered, May 26, 1760, he was re-elected.—J. Staunton Charleton; chairman of the committee of supply.

OXFORDSHIRE. Philip lord visc. Wenman; declared not duly elected.—Sir J. Dashwood; declared not duly elected.—Thos. lord visc. Parker; declared duly elected, April 23, 1755.—Sir Edward Turner; declared duly elected, April 23, 1755.

Oxford University. Sir Roger Newdigate.—Peregrine Palmer.

Oxford. Robert Lee.—Tho. Rowney; died, a new writ ordered, Nov. 13, 1759.—Sir Thomas Stapylton.

Woodstock. John visc. Bateman; of the kingdom of Ireland; made a commissioner of the Admiralty; a new writ ordered, Dec. 22, 1755, he was re-elected; made treasurer of the household; a new writ ordered, December 2, 1756, he was re-elected; made master of the buck hounds; a new writ ordered, July 1, 1757, he was re-elected.—Anthony Keck.

Banbury. Frederick lord North; eldest son of the earl of Guilford; made a commissioner of the treasury; a new writ ordered, May 29, 1759, he was re-elected; made joint paymaster-general of the land forces, &c.; a new writ ordered, Nov. 11, 1766, he was re-elected; made chancellor and under treasurer of the Exchequer; a new writ ordered, Nov. 23, 1767, he was re-elected.

RUTLANDSHIRE. Brownlow lord Burleigh; eldest son of the earl of Exeter; succeeded to the peerage on the death of his father; a new writ ordered, Dec. 2, 1754.—George B. Brudenell; cousin to the earl of Cardigan; one of his majesty's equerries.—Thomas Noel.

SALOP. Sir John Astley.—Richard Lister.

Shrewsbury. Robert Moore.—Thomas Hill.

Bridgenorth. William Whitmore; brother to sir Thomas Whitmore, K. B.; a major in the foot guards; made colonel of a regiment of foot, and a major-general.—John Grey; brother to the earl of Stamford; a clerk comptroller of the board of green cloth.

Ludlow. Richard Herbert; died, a new writ ordered, Dec. 2, 1754.—Edward Herbert.—Henry Bridgeman; eldest son of sir Orlando Bridgeman, bart.

Great Wenlock. William Forester; died, a new writ ordered, Nov. 23, 1758.—George Forester; eldest son of Brook Forester, esq.—Brook Forester; eldest son of the other member.

Bishop's Castle. J. Dashwood King.—Barnaby Blackwell; died, and on sir Robert de Cornewall's withdrawing his petition, a new writ was ordered, Jan. 14, 1755.—Walter Waring; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ was ordered, February 7, 1759.—Henry Grenville; third brother to earl Temple.

SOMERSETSHIRE. Sir Charles K. Tynte.—Thomas Prowse.

Bristol. Robert Nugent; a commissioner of the treasury; made one of the vice-treasurers of Ireland; a new writ ordered, Dec. 19, 1759, he was re-elected.—Richard Beckford; died, a new writ ordered, Feb. 23, 1756.—Jarrit Smith.

Bath. Sir John Ligonier; a general in the army; colonel of the royal regiment of horse-guards; governor of Plymouth, and lieutenant-general of the ordnance; made commander in chief of his majesty's forces in Great Britain; and colonel of the first regiment of foot guards, October 1757; created viscount Ligonier in the kingdom of Ireland, Dec. 10, 1757.—Robt. Henley; recorder of Bath, and solicitor-general to the prince of Wales; made attorney-general to his majesty; a new writ ordered, Dec. 2, 1756, he was re-elected; made lord keeper of the great seal; a new writ ordered, July 1, 1757.—William Pitt; one of

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his majesty's principal secretaries of state.

Wells. Edward lord Digby; of the kingdom of Ireland; groom of the bedchamber to the prince of Wales; died, a new writ ordered, Dec. 6, 1757.—Robert Digby; brother to the deceased member; a captain in the navy.—Charles Tudway.

Taunton. George lord Carpenter; of the kingdom of Ireland. Soon after the dissolution of this parliament his majesty was pleased to advance him to the dignity of earl of Tyrconnel in Ireland.—John Halliday; died, a new writ ordered, Dec. 2, 1754.—Robert Maxwell; eldest son of John Maxwell, esq. whom his majesty was pleased to create baron Farnham in Ireland, May 6, 1756, to which peerage he succeeded in 1759; and in December 1760, was raised to the dignity of viscount.

Bridgewater. John earl of Egmont; of Ireland.—Robert Balch.

Minehead. Charles Whitworth.—Daniel Boone; a clerk of the household to the princess dowager of Wales.

Ilchester. Thomas Lockyer.—John Talbot; brother to lord Talbot; made a commissioner of trade and plantations; a new writ ordered, Dec. 22, 1755, he was re-elected; died, a new writ ordered, Dec. 2, 1756.—Joseph T. Lockyer.

Milborn Port. Edmund Walter.—Thomas Medlycott.

SOUTHAMPTON. Lord Harry Powlett; succeeded his brother as duke of Bolton; a new writ ordered, Dec. 19, 1754.—Cha. marq. of Winchester; eldest son of the duke of Bolton; a lieutenant-colonel in the army, and lieutenant-governor of the Tower of London; in this parliament before for Lymington; succeeded his father as duke of Bolton; a new writ ordered, Nov. 16, 1759.—H. B. Legge; uncle to the earl of Dartmouth; chancellor and under-treasurer of the Exchequer; in this parliament before for Orford.—Alexander Thistlethwaite.

Winchester. James marq. of Carnarvon; eldest son of the duke of Chandos; ranger of Enfield Chace.—Henry Penton; letter carrier to his majesty.

Southampton. Anth. L. Swymmer; died, a new writ ordered, March 24, 1760.—Henry Dawkins.—Hans Stanley; made a commissioner of the Admiralty; a new writ ordered, Dec. 1, 1757, he was re-elected.

Portsmouth. Sir Wm. Rowley; admiral of the white, and rear-admiral of Great Britain; made a commissioner of the admiralty; a new writ ordered, April 18, 1757, he was re-elected.—Sir Edward Hawke; vice-admiral of the white.

Yarmouth. Thomas Holmes; created baron Holmes of Kilmallock in Ireland.—Henry Holmes; brother to the other member; colonel of a regiment of foot, and lieutenant-governor of the Isle of Wight; made a major-general in February 1756, and a lieutenant-general in April 1759.

Petersfield. Wm. G. Hamilton; made a commissioner of trade and plantations; a new writ ordered, April 15, 1756, he was re-elected.—William Beckford; made his election for London.—Sir John Phillips.

Newport. Thomas L. Dummer; clerk of the great wardrobe.—Ralph Jennison; master of his majesty's buck hounds; died, a new writ ordered, May 22, 1758.—Charles Holmes; brother to the members for Yarmouth in this county; rear-admiral of the blue.

Stockbridge. John Gibbons.—Geo. Hay; official principal to the arches court of Canterbury; vicar-general to the archbishop of Canterbury, and chancellor of the diocese of Worcester; made a commissioner of the admiralty; a new writ ordered, Dec. 2, 1756, he was re-elected.

Newton. Sir John Barrington.—Harcourt Powell.

Christ-Church. Sir T. Robinson; one of his majesty's principal secretaries of state; made keeper of the great wardrobe; a new writ ordered, Nov. 15, 1755, he was re-elected. At the end of this parliament he was created baron Grantham of Grantham in the county of Lincoln.—John Mordaunt; only brother to the earl of Peterborough; a lieutenant-colonel in the army; made one of the commissioners for trade and plantations; a new writ ordered, Nov. 11, 1756, he was re-elected.

Lymington. Sir C. Powlett; eldest son of lord Harry Powlett; a lieutenant-colonel in the army, and lieutenant-governor of the Tower of London; his father succeeding his brother as duke of Bolton, August 25, 1754, he was from that time styled marquis of Winchester; made steward and bailiff of the three Chiltern Hundreds; a new writ ordered, January 8, 1755.—Lord Harry Powlett; second son of the duke of Bolton; a captain in the navy.—Harry Burrard; ranger of the New Forest, and governor of Calshot Castle.

Whitchurch. William Powlett; died, a new writ ordered, March 2, 1757.—George Jennings.—Tho. Townshend;

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son of the right hon. Thomas Townshend, and nephew of visc. Townshend; made one of the commissioners of the treasury; a new writ ordered, Dec. 17, 1765, he was re-elected; made paymaster-general of the land forces; a new writ ordered, Nov. 27, 1767, he was re-elected.

Andover. Francis B. Delaval.---John Whit. Griffin; has a company in the foot guards; made colonel of a regiment of foot in October 1759, and the same year a major-general; in January 1761, made a lieutenant-general, and a knight of the bath; in April 1766, made colonel of the first regiment of grenadier guards; made colonel of a regiment of dragoons.

STAFFORDSHIRE. W. L. Gower; uncle to earl Gower; died, a new writ ordered, Dec. 20, 1756.---Henry F. Thynne; brother to viscount Weymouth.---Wm. Bagot; eldest son of sir Walter Wagstaff Bagot, bart.

Litchfield. Granville, visc. Trentham; succeeded his father as earl Gower, and is since created marquis of Stafford; a new writ ordered, January 7, 1755.---Henry Vernon.---Thomas Anson; elder brother of lord Anson.

Stafford. Wm. Chetwynd; brother to viscount Chetwynd; master worker of the Mint.---Wm. R. Chetwynd; only son of viscount Chetwynd of Ireland.

Newcastle-under-Line. Bapt. L. Gower; uncle to earl Gower.---John Waldegrave; brother to earl Waldegrave; a groom of his majesty's bedchamber, and colonel of a regiment of foot; made colonel of a regiment of dragoons, and a major-general; in 1759 made a lieutenant-general, and in 1760 governor of Plymouth.

Tamworth. Thomas Villiers; brother to the earl of Jersey; a commisioner of the admiralty; created baron Hyde of Hindon in the county of Wilts; a new writ ordered, June 18, 1756.---George Bussy, visc. Villiers; only son of the earl of Jersey.---Sir Robert Burdett.

SUFFOLK. Sir Cordell Firebrace; died, a new writ ordered, February 4, 1759.---Rowland Holt.---John Affleck.

Ipswich. Edward Vernon; died, a new writ ordered, Dec. 1, 1757.---Thomas Staunton.---Samuel Kent; died, a new writ ordered, Nov. 13, 1759.---George Montgomery.

Dunwich. Sir J. G. Downing.---Soame Jenyns; made a commissioner of trade and plantations; a new writ ordered, Dec. 22, 1755, he was re-elected; made steward of the three Chiltern Hundreds in the county of Buckingham; he was elected for the town of Cambridge.

Orford. H. B. Legge; uncle to the earl of Dartmouth; made chancellor and under treasurer of the Exchequer; a new writ ordered, Dec. 2, 1756, he was re-elected; again appointed to the same offices; a new writ ordered, July 1, 1757, he was re-elected; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, Jan. 23, 1758, he was re-elected; made surveyor of the petty customs of the port of London; a new writ ordered, Dec. 7, 1759, he was re-elected for the county of Southampton.---Charles Fitzroy; brother to the duke of Grafton; has a company in the foot guards; made a groom of his majesty's bedchamber; a new writ ordered, June 16, 1760; made a groom of the bedchamber to his majesty; as was also ---John Offley; made keeper of the private roads; a new writ ordered, April 9, 1756, he was re-elected; made a groom of his majesty's bedchamber; a new writ ordered, July 1, 1757, he was re-elected.

Aldborough. William W. Ashe.---Zac. P. Fonnereau.

Sudbury. Thomas Fonnereau.---Thomas Walpole; second son of the right hon. Horatio Walpole; created in 1756 lord Walpole of Wolterton in the county of Norfolk; a London merchant.

Eye. Courthorpe Clayton; made avenor and clerk martial to his majesty; a new writ ordered, Dec. 1, 1757, he was re-elected.---Nicholas Hardinge; recorder of Kingston upon-Thames; attorney-general to the duke of Cumberland, and one of the secretaries to the treasury; died, a new writ ordered, April 17, 1758.---Henry Townshend; nephew to viscount Townshend; a captain in the army in 1759; made captain of a company in the foot guards; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, Jan. 16, 1760.---Charles visc. Brome; eldest son of earl Cornwallis; a captain in the army.

St. Edmund's-Bury. William visc. Petersham; only son of the earl of Harrington; colonel of the second troop of horse grenadier guards, and customer of Dublin; succeeded his father as earl of Harrington; a new writ ordered, Dec. 14, 1756.---A. Henry, earl of Euston; grandson and heir of the duke of Grafton; a gentleman of the bedchamber to the prince of Wales; succeeded his grandfather as duke of Grafton; a new writ ordered, May 16, 1757.---A. John Hervey.---F. Hervey; uncle to the earl of Bristol.---A. J.

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Hervey; brother to the earl of Bristol; a captain in the navy. There being an equal number of votes for the two last mentioned, the House declared it to be a void election, in respect of the hon. Felton Hervey, and the hon. Augustus John Hervey; a new writ ordered, Dec. 2, 1754.—Felton Hervey; groom of the bedchamber to the duke of Cumberland.

SURREY. Arthur Onslow; Speaker of this and the four preceding parliaments.—Thomas Bugden.

Southwark. William Belchier.—William Hammond.

Blechingley. Sir Kenrick Clayton.—William Clayton; brother to the above.

Ryegate. Charles Yorke; second son of the earl of Hardwicke; made solicitor-general to his majesty; a new writ ordered, Dec. 2, 1756,—he was re-elected.—Charles Cocks; made clerk of the deliveries of the ordnance; a new writ ordered, June 19, 1758, re-elected.

Guilford. Richard Onslow; brother to the right hon. Arthur Onslow; a lieutenant-general; captain of the first troop of horse grenadier guards, and governor of Plymouth; died, a new writ ordered, March 24, 1760.—George Onslow; son of the deceased member; has a company in the foot guards; made out-ranger of Windsor Forest; a new writ ordered, Dec. 18, 1765, he was re-elected.—Sir John Elwill.

Gatton. James Colebrooke; created a baronet of Great Britain, October 12, 1759.—Thomas Brand.

Haslemere. Philip Cart. Webb; secretary to the commissioners of bankrupts, and one of the solicitors of the treasury. —John More Molyneux; died, a new writ ordered, Nov. 15, 1759.—Thomas M. Molyneux; a captain of the foot guards; promoted to a company in the foot guards.

SUSSEX. Thomas Pelham.—John Butler.

Chichester. George visc. Bury; eldest son of the earl of Albemarle; colonel of a regiment of foot; aide-du-camp, and one of the gentlemen of the bedchamber to the duke of Cumberland; succeeded his father as earl of Albemarle; a new writ ordered, Jan. 8, 1755.—Augustus Keppel; next brother to the earl of Albemarle; a captain in the navy; made a colonel of marines in 1760.—John Page.

Horsham. Sir Lionel Pilkington.—Chas. Ingram; nephew to viscount Irwin; a groom of the bedchamber to the prince of Wales.

Midhurst. Sir John Peachey.—John Sargent; a merchant in London.

Lewes. Francis Poole.—Tho. Sergison.

Shoreham. Robert Bristow.—Richard Stratton; died, a new writ ordered, Dec. 20, 1758.—Sir W. Peere Williams; made a captain in the army by brevet in 1759; made a captain of dragoons.

Bramber. George visc. Malpas; eldest son of the earl of Cholmondeley; a lieutenant-colonel in the army.—Nathaniel Newnham; a merchant in London.

Steyning. Hitch Young; died, a new writ ordered, Feb. 5, 1759.—Frazer Honywood; a banker in London; died, a new writ ordered, Feb. 1, 1764.—Alexander Hume.

East Grinsted. Joseph Yorke; fourth son of the earl of Hardwicke; colonel of a regiment of foot, and a major-general; ambassador extraordinary and plenipotentiary to the states-general.—Sir Whistler Webster.

Arundel. George Colebrooke; a banker in London, and chirographer in the Court of Common Pleas; Thomas Griffin; admiral of the blue.

WARWICKSHIRE. Sir Charles Mordaunt.—Wm. Craven; brother to lord Craven.

Coventry. Samuel Greathead.—William Groves.

Warwick. Wills earl of Hilsborough; of Ireland; made treasurer of the chamber; a new writ ordered, Dec. 16, 1755, he was re-elected; created baron Harwich of Harwich in the county of Essex; a new writ ordered, Dec. 2, 1756.—John Spencer; nephew of the duke of Marlborough.—Henry Archer; brother of lord Archer.

WESTMORELAND. Sir George Dalston.—John Dalston; died, a new writ ordered, May 28, 1759.—Robert Lowther.

Appleby. Philip Honywood; colonel of a regiment of foot; not duly elected.—Fletcher Norton; king's counsel at law. William Lee; not duly elected.—Philip Honywood; colonel of dragoons; made a major-general, and governor of Kingston-upon-Hull; made a lieutenant-general in 1768.

WILTSHIRE. Sir Robert Long.—Edward Popham.

New Sarum. W. P. Bouverie; eldest son of viscount Folkstone; succeeded his father as viscount Folkstone, but no new writ was issued.—Julines Beckford.—Edward Poore; withdrew his petition, and the clerk of the crown attended with the writ, which was amended accordingly.

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Wilton. Robert S. Herbert; uncle to the earl of Pembroke; receiver-general of the crown lands.---William Herbert; uncle to the earl of Pembroke; colonel of a regiment of dragoons, and one of the grooms of his majesty's bedchamber; made a major-general in ; died; a new writ ordered, April 18, 1757.---Nicholas Herbert; uncle to the earl of Pembroke; treasurer to the princess Amelia.

Downton. James Cope; died, a new writ ordered, Dec. 3, 1756.---Edward Poore.---James Hayes; made steward of the manor of Old Shoreham; a new writ ordered, July 4, 1757.---Charles Pratt; his majesty's attorney-general.

Hindon. Bisse Richards; died, a new writ ordered, Jan. 10, 1756.---William Mabbot.---James Dawkins; died, a new writ ordered, Jan. 16, 1758.---James Calthorpe; yeoman of the removing wardrobe.

Heytesbury. Pierce A'Court.---William A'Court; has a company in the foot guards; made a major-general.

Westbury. Chauncy Townshend; a merchant in London.---Peregrine Bertie.

Calne. Thomas Duckett; a merchant in London; made steward of the manor of Kennington in the county of Surry; a new writ ordered, July 4, 1757.---George Hay; one of the commissioners of the admiralty; his majesty's advocate-general; vicar-general to the archbishop of Canterbury, and chancellor of the diocese of Worcester; in this parliament before for Stockbridge.---William Northey.

Devizes. Samuel Garth.---Wm. Wilby.

Chippenham. Edward Bayntun Rolt.---Samuel Fludyer; knighted, a director of the Bank, and an alderman of London; created a baronet of Great Britain, Nov. 13, 1756.

Malmesbury. Lord George Bentinck; brother to the duke of Rutland; colonel of a regiment of foot; died, a new writ ordered, March 15, 1759.---W. Conolly; brother-in-law to the duke of Richmond; a privy counsellor in Ireland.---Brice Fisher.

Cricklade. William Rawlinson; clerk of the ordnance.---Thomas Gore; commissary general of musters.

Great Bedwin. Sir Robert Hildyard.---William Sloper; made a commissioner of trade and plantations; a new writ ordered, Dec. 4, 1756.---Robert Brudenell; brother to the earl of Cardigan; an officer in the foot guards.

Ludgershall. Sir John Bland; died, a new writ ordered, Nov. 13, 1755.---Henry Digby; grandson and heir of lord Digby; one of the under secretaries of state.---Thomas Hayward.

Old Sarum. William visc. Pulteney; only son of the earl of Bath; appointed lieutenant-colonel in a regiment to be forthwith raised by colonel Crauford; a new writ ordered, Dec. 3, 1759, he was re-elected.---Thomas Pitt; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, March 12, 1755.---Sir William Calvert; an alderman of London, lord mayor in 1749.

Wotton Basset. Thomas Creswell.---John Probyn.

Marlborough. Sir John H. Cotton.---John Ward; eldest son of lord Ward.

WORCESTERSHIRE. John B. Coventry; brother to the earl of Coventry.---Edmund Pytts.

Worcester. Tho. Vernon.---Henry Crabb Boulton; a merchant in London.

Droitwich. Robert Harley; brother to the earl of Oxford; a counsellor at law; made recorder of Tewkesbury.---Thomas Foley.

Evesham. Sir J. Rushout.---John Porter; died, a new writ ordered, April 13, 1756. Edward Rudge.

Bewdley. Wm. Henry Lyttelton, brother of sir George Lyttelton, bart. made governor of South Carolina; a new writ ordered, Jan. 23, 1755.---William Finch; brother to the earl of Winchelsea; vice-chamberlain of the household.

YORKSHIRE. H. Pleydell, visc. Downe; of Ireland; made a captain by brevet in the army; made lieutenant-colonel of the 25th regiment of foot; died of the wounds he received at the battle of Campen, Dec. 1760: no new writ issued.---Sir C. D'Arcy; uncle to the earl of Holdernesse; died, a new writ ordered, Dec. 12, 1758.---Sir George Saville.

York. Sir John Armitage; killed in the action at St. Cas, on the coast of France, whither he had gone a volunteer with the army; a new writ ordered, Nov. 23, 1758.---Wm. Thornton.---George Fox Lane; created baron Bingley of Bingley in the county of York, May 1762.

Kingston-upon-Hull. Lord Robert Manners; brother to the duke of Rutland; colonel of a regiment of foot, and lieutenant-governor of Kingston-upon-Hull; made a major-general in February 1757, and a lieutenant-general in April 1759.---Richard Crowle; a counsellor at law; died, a new writ ordered, Nov. 25, 1757.---Sir George M. Metham.

Knaresborough. Richard Arundel; bro-

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ther to lord Arundel of Trerice; died, a new writ ordered, Jan. 31, 1758.—R. B. Walsingham; son of the earl of Shannon of Ireland; a captain in the navy.—Sir Henry Slingsby.

Scarborough. William Osbaldeston.—Sir Ralph Milbanke.

Rippon. William Aislabie; one of the auditors of the imprest, and principal register of the consistory court of the archbishop of York.—Sir Charles Vernon.

Richmond. William earl of Ancram; only son of the marquis of Lothian; colonel of a regiment of dragoons; made a major-general; made a lieutenant-general.—John Yorke; died, a new writ ordered, Dec. 1, 1757.—Thomas Yorke.

Heydon. Charles Saunders; a captain in the navy; made comptroller of the navy; a new writ ordered, Nov. 15, 1755, he was re-elected; made rear-admiral of the blue in 1756; vice-admiral of the blue in 1759; lieutenant-general of marines in 1760, and a knight of the bath in 1761.—Peter Denis; a captain in the navy.

Borough-Bridge. Wm. Murray; uncle to viscount Stormont; his majesty's attorney-general; made lord chief justice of the Court of King's-bench, and created baron Mansfield of Mansfield in the county of Nottingham; a new writ ordered, Dec. 4, 1756.—Augustus earl of Euston; grandson and heir of the duke of Grafton; made his election for St. Edmundsbury; a new writ ordered, June 8, 1757.—Thomas Thoroton.—Lewis M. Watson; second son of lord Monson; made his election for the county of Kent; a new writ ordered, Dec. 6, 1754.—John Fuller; died, a new writ ordered, March 6, 1756.—Sir Cecil Bishopp.

Malton. John Mostyn; brother to sir Roger Mostyn; colonel of a regiment of dragoons, and a groom of the bedchamber to the king; made a major-general, Feb. 10, 1757.—Henry Finch; brother to the earl of Winchelsea; surveyor-general of his majesty's board of works.

Thirske. Thomas Frankland; a captain of the navy; made rear-admiral of the white in 1775.—Roger Talbot.

Aldborough. William Pitt; paymaster-general of the land forces; made one of his majesty's principal secretaries of state; a new writ ordered, Dec. 4, 1756.—Nathaniel Cholmley.—Andrew Wilkinson; storekeeper of the ordnance.

Beverley. Sir W. Codrington.—Wm. Jolliffe Tuffnel.

Northallerton. Edwin Lascelles.—Daniel Lascelles; brother to the other member.

Pontefract. William visc. Galway; of Ireland; receiver of the crown and fee farm rents for the counties of Northumberland and Durham.—Sambrooke Freeman.

CINQUE PORTS.

Hastings. James Pelham; secretary to the lord chamberlain (duke of Grafton).—Andrew Stone; secretary to the prince of Wales; secretary to the island of Barbadoes, and a commissioner of trade and plantations.

Dover. Lord George Sackville; third son of the duke of Dorset; colonel of a regiment of horse; clerk of the privy council in Ireland, and ranger of the Phœnix Park, near Dublin; made a major-general in the army in 1755; made lieutenant-general of the ordnance in 1757; made a lieutenant-general in the army, and master-general of the ordnance in 1758.—William Cayley; made a commissioner of excise; a new writ ordered, April 12, 1755.—Peter Burrell; died, a new writ ordered, April 29, 1756.—Hugh Valence Jones; made a commissioner of the revenue in Ireland; a new writ ordered, June 1, 1759.—Sir Edward Simpson; dean of the arches court of Canterbury; judge of the Cinque Ports, and master of Trinity hall, Cambridge.

Sandwich. John Cleveland; secretary to the admiralty.—Claudius Amyand; under-secretary to the earl of Holdernesse, one of his majesty's principal secretaries of state, and keeper of the king's libraries; made a commissioner of the customs; a new writ ordered, Dec. 2, 1756.—Henry visc. Conyngham; of Ireland.

Hythe. William Glanville.—Sir Thomas Hales; a clerk of the board of green cloth.

New Romney. Sir Francis Dashwood.—Henry Furnesse; made a commissioner of the treasury; a new writ ordered, Dec. 22, 1755, he was re-elected; died, a new writ ordered, December 1756.—Rose Fuller.

Rye. Phillips Gibbon.—George Onslow.

Winchelsea. Thomas O. Hunter; made a commissioner of the Admiralty; a new writ ordered, Dec. 2, 1756, he was re-elected; again appointed to the same office; a new writ ordered, July 1, 1757, he was re-elected; made superintendant or director of forage, provisions, necessaries, and extraordinaries for the army under the command of prince Ferdinand of Brunswick; a new

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writ ordered, Jan. 19, 1759.---George Gray; brother to sir James Gray, bart.; a lieutenant-colonel in the horse guards; made colonel of a regiment of foot; made steward of the manor of Old Shoreham in the county of Sussex; a new writ ordered, March 31, 1760.---Thomas O. Hunter.---Arnold Nesbitt.

Seaford. Wm. Hall Gage; eldest son of viscount Gage of Ireland; succeeded his father as viscount Gage in 1754; made paymaster of pensions; a new writ ordered, Dec. 22, 1755, he was re-elected.---William Hay; died, a new writ ordered, Nov. 14, 1755.---James Peachy; made a groom of his majesty's bedchamber; a new writ ordered, Nov. 26, 1760, he was re-elected.

WALES.

ANGLESEY. Sir Nicholas Bayley.

Beaumaris. Richard Pryce.

BRECONSHIRE. Thomas Morgan; lord lieutenant and Custos Rotulorum of the counties of Brecon and Monmouth, and advocate-general to his majesty's land forces.

Brecon. Thomas Morgan, jun.; eldest son of the member for the county.

CARDIGANSHIRE. John Lloyd; died, a new writ ordered, Nov. 13, 1755.---William Vaughan.

Cardigan. John Symmons.

CARMARTHENSHIRE. George Rice.

Carmarthen. Griffith Phillips.

CARNARVONSHIRE. Sir John Wynn; surveyor-general of his majesty's mines in Wales, and treasurer to Chelsea Hospital.

Carnarvon. Sir William Wynn; died, a new writ ordered, Dec. 2, 1754. Robert Wynn.

DENBIGHSHIRE. Sir Lynch Salusbury Cotton.

Denbigh. Richard Myddelton.

FLINTSHIRE. Sir Thomas Mostyn; died, a new writ ordered, April 1758.—Sir Roger Mostyn; son of the deceased member; lord lieutenant of the county.

Flint. Sir John Glynne.

GLAMORGANSHIRE. Charles Edwin; died, a new writ ordered, December 1756.—Thomas Matthews.

Cardiff. Herbert Mackworth.

MERIONETHSHIRE. William Vaughan.

MONTGOMERYSHIRE. Edward Kynaston.

Montgomery. William Bodville; died, a new writ ordered, Nov. 13, 1759.---Richard Clive; father of lord Clive.

PEMBROKESHIRE. Sir William Owen.

Pembroke. Hugh Barlow.

Haverford West. William Edwardes.

RADNORSHIRE. Sir Humphrey Howarth; died, a new writ ordered, Feb. 19, 1755.---Howell Gwynne, jun.; lord lieutenant and Custos Rotulorum of this county.

Radnor. Thomas Lewis.

SCOTLAND.

SHIRES OF

Aberdeen. Lord Adam Gordon; uncle to the duke of Gordon; a captain in the army; in 1756 promoted to a company in the foot guards.

Ayr. James Mure Campbell; cousin to the earl of Loudoun; a major of dragoons; made a lieutenant-colonel of dragoons; afterwards earl of Loudoun, and a major-general in 1782.

Argyle. Dugal Campbell.

Banff. James Duff; eldest son of lord Braco of Ireland, who in 1759 was created viscount Macduff and earl of Fife in Ireland.

Berwick. Alexander Hume Campbell; only brother to the earl of Marchmont; a barrister at law; made lord register of Scotland; a new writ ordered, Feb. 5, 1756, he was re-elected; died, a new writ ordered, Dec. 15, 1760.---James Pringle; eldest son of sir Robert Pringle, bart.; a major in the army; made lieutenant-colonel of a regiment of foot.

Caithness & Bute. John Scott; a captain in the royal regiment of foot; in 1756 promoted to a company in the foot guards.

Kinross & Clackmannan. Robert Colvill.

Cromarty. Sir John Gordon.

Dumfries. Lord Charles Douglas; second son of the duke of Queensberry; his elder brother the earl of Drumlanrig dying, he by that means became the eldest son of a Scots peer, and consequently rendered incapable of sitting in parliament as a commoner for any place in Scotland; a new writ ordered, Nov. 18, 1755.---James Veitch.

Dunbarton. John Campbell; colonel of the 2nd or North British dragoons; a groom of the bedchamber to the king, and a lieutenant-general.

Edinburgh. Robert Dundas; made lord advocate for Scotland; a new writ ordered, Dec. 2, 1754, he was re-elected; made lord president of the court of session in Scotland; a new writ ordered, Dec. 15, 1760.---Sir Alexander Gilmour; a lieutenant in the foot guards; made one of the clerks comptrollers of the board of green cloth; a new writ ordered, Dec. 17, 1765, he was re-elected.

Elgin. Sir Ludowick Grant.

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Fife. James St. Clair; second son of the late lord St. Clair; colonel of the 1st or royal regiment of foot; governor of Cork in Ireland, and a lieutenant-general.

Forfar. William, earl Panmure; of Ireland; colonel of a regiment of foot; in 1755 made a major-general; made a lieutenant-general in 1758.

Haddington. Sir Hew Dalrymple.

Inverness. John Campbell, jun.

Kincardine. Sir James Carnegie.

Kirkcudbright. John Ross Mackye.

Lanark. James Vere; died, a new writ ordered, Dec. 18, 1759.---Daniel Campbell.

Linlithgow. Charles Hope Weir; brother to the earl of Hopetoun; governor of Blackness Castle, and muster-master-general of the land forces in Scotland.

Orkney. James Douglas; a captain in the navy; knighted in 1759.

Peebles. John Dickson.

Perth. Lord John Murray; brother to the duke of Athol, and colonel of a highland regiment of foot; made a major-general in 1755, and a lieutenant-general in 1758.

Renfrew. William Mure.

Ross. Kenneth Mackenzie; commonly called lord Fortrose, as heir to the attainted earl of Seaforth.

Roxburgh. Walter Scott.

Selkirk. Gilbert Elliot; eldest son of sir Gilbert Elliot of Minto, bart.; made a commissioner of the admiralty; a new writ ordered, Dec. 2, 1756, he was re-elected.

Stirling. James Campbell; eldest son of sir James Livingstone, bart.; changed his name to Campbell, agreeable to the will of his uncle sir James Campbell of Arkinglass, bart.

Sutherland. George Mackay; brother to lord Reay; made master of the Mint in Scotland; a new writ ordered, Dec. 2, 1756, he was re-elected.

Wigton. John Stewart.

Edinburgh City. William Alexander.

Burghs of

Kirkwall, &c. Sir Henry Munro.

Inverness, &c. John Campbell.

Elgin, &c. William Grant; lord advocate for Scotland; made a lord of session and justiciary in Scotland; a new writ ordered, Dec. 2, 1754.---Andrew Mitchell; his majesty's envoy extraordinary and plenipotentiary to the king of Prussia.

Aberdeen, &c. David Scott.

Forfar, &c. Thomas Leslie; second brother to the earl of Rothes; barrack-master general for Scotland.

Crail, &c. Sir Henry Erskine; a lieutenant-colonel in the army; dismissed the service by order of the king, 1756.

Kirkaldy, &c. James Oswald; a commissioner of trade and plantations; made a commissioner of the treasury; a new writ ordered, Dec. 19, 1759, he was re-elected; made one of the vice-treasurers of Ireland; a new writ ordered, April 11, 1763, he was re-elected; made a privy counsellor.

Inverkeithing, &c. George Haldane; has a company in the foot guards; made governor of the island of Jamaica; a new writ ordered, Feb. 1, 1758.---Robert Haldane.

Glasgow, &c. John Campbell; lieutenant-colonel of the 42d regiment, and aide-du-camp to the king; in 1755 made colonel of a regiment of foot; in 1757 made colonel of a regiment of dragoons, and in 1759, a major-general, now duke of Argyle.

Selkirk, &c. John Murray.

Haddington, &c. Andrew Fletcher, jun.; auditor of the exchequer in Scotland.

Dumfries, &c. Archibald Douglas; a lieutenant-colonel of dragoons; made aide-du-camp to the king in 1756; made a colonel of a regiment in 1758, and a major-general in 1759.

Wigton, &c. John Hamilton.

Ayr, &c. James Stuart Mackenzie; brother to the earl of Bute.

Sixteen Peers of Scotland.

Duke of Argyle,
Marq. of Tweedale,
Lothian,
Earls of Rothes,
Morton,
Moray,
Home,
Lauderdale,
Loudoun,
Findlater and Seafield,
Leven and Melville, (died in 1754; in his place Lord Cathcart.)
Breadalbane,
Aberdeen,
Marchmont,
Hyndford,
Viscount Stormont.

Mr. Arthur Onslow re-chosen Speaker.] The Commons being returned to their House*,

The right hon. John Marquis of *Granby*,

* From the Commons' Journals.

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son and heir apparent of the most noble John duke of Rutland, one of the knights of the shire for the county of Cambridge, addressing himself to the Clerk (who, standing up, pointed to him, and then sat down), spoke to the effect following:

Mr. Dyson;

As it is necessary, before we proceed in any business, to make choice of a proper person to preside in our future deliberations and debates, I rise, if the House will give me leave, in order to propose one.

That Chair is not a post of ease and repose, but of great labour and activity: It requires a person of a distinguished character, whose authority may the better support the dignity of this House.

It is of the greatest consequence, that we chuse the most able person we can find to supply this important office; for the qualifications of a Speaker must necessarily have great weight and influence in our proceedings; and the public business, as the person we shall fix on may prove more or less expert, will accordingly be either facilitated or obstructed, expedited or perplexed.

That honourable Chair, Sir, demands, in the person who shall be destined to fill it, many talents and many virtues: it requires, in general, great abilities; it requires, in particular, an exact skill in the orders, rules, and methods, of parliament; it requires a perfect knowledge of all the powers and privileges of this House, and a consummate experience in the infinite variety of business necessarily to be transacted within these walls: besides these talents, the greatest integrity and impartiality, an unshaken resolution, and steady firmness of mind, are virtues that ought to be eminently conspicuous in the character of the Speaker of this House.

Very difficult indeed, Sir, it is to find so many great qualifications united in any one person; yet we have the happiness of having one gentleman amongst us, whom experience has shewn us, on many occasions, to be equal, in every shape, to this important office; one whose great ability and integrity has appeared, in innumerable instances, through the course of several successive parliaments; one whose zealous attachment for our present happy establishment, and for the whole constitution of this nation in general, is well known; and who has a heart warm with that zeal and affection, which is the proper character of a Speaker of this House; a zeal and affection for the rights and liberties of the Commons of Great Britain.

I perceive every gentleman's eyes are already fixed on the right hon. Mr. Onslow; I do not doubt, therefore, but I shall meet with the unanimous approbation of this House, when I move, that Mr. Onslow may be desired to accept of this important trust; and that he will again take possession of that Chair, which he has filled, in four successive parliaments, with the greatest ability and integrity, with so much honour and reputation to himself, to the satisfaction of former parliaments, and to the advantage of this kingdom.

There can but one doubt occur in the choice of Mr. Onslow; and that is, how far he himself can be induced to accept of this important and laborious office; and yet I flatter myself, there is one argument, resulting from his own virtue, and love of his country, which will be able to overrule this difficulty. There is no man, whose long and faithful services give him a juster title to repose and dignity, than Mr. Onslow: no man has a stricter or more indisputable claim to every argument of self-defence, that can possibly excuse his embarking again in this laborious office; no man can forego the arguments with greater grace and dignity; no man so likely to sacrifice every consideration of personal ease and advantage to the interest of the public, and to the importunities of this House, than himself. I therefore move, "That the right hon. Arthur Onslow, esq. be desired to take the Chair as Speaker."

Then *Thomas Pelham*, esq., one of the knights of the shire for the county of Sussex, addressing himself likewise to the Clerk (who, standing up, pointed to him, and then sat down), spoke to the following effect:

Mr. Dyson;

I rise up to second the motion made by the noble lord, who has so perfectly and so elegantly described the eminent virtues and abilities of my very honourable friend, that he has scarce left room for me to say any thing, but to testify my strongest approbation, and to declare the high veneration and esteem I bear his name and person.

This acknowledgment is particularly due from me, as the strongest union and friendship has ever subsisted betwixt his family and mine, connected by the same principles, rivetted by the same views, the

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service of their king, and the good of their country.

I am particularly happy in being able to dedicate my first attempt of this kind to a person of such high worth, and in a cause so highly to be approved of by every one in this House, that it must reflect honour on me, though I prove very unequal to the task.

It would be extremely unnecessary, as well as presumptuous in me, to aim at a detail of my very honourable friend's excellencies, as every one here must be thoroughly sensible of the great benefits we have reaped from his incessant services and abilities; and, I hope, will readily join in intreating him once more to accept of that office, which he has filled, for so many parliaments, successively, with so much honour, steadiness, and integrity. I beg leave therefore, Mr. Dyson, to assist the noble lord in replacing Mr. Arthur Onslow in the Chair.

The House calling Mr. *Onslow* to the Chair, he stood up in his place, and said:

"Mr. Dyson,

"Every gentleman here must be sensible of the great honour I have received by the motion the noble lord, and the worthy gentleman, have just now made; and it will not be thought strange to any one, that I should extremely value myself, as indeed I do, upon their favourable thoughts of me, and their recommendation of me to the favour of the House: if the length of time, through which I have already passed in this high and painful office, should create in gentlemen an argument for my being called to it again, does it not also, Sir, suggest some very strong reasons against another undertaking of it by me now? I am sure it does—I am sure it ought to do so with me: but, however, Sir, I will not dispute with the House in their commands; I am theirs, to be disposed of as they shall think proper; and shall always deem it a duty to submit, in every thing, my will to their direction."

The House again calling Mr. Onslow to the Chair, he was taken out of his place by the lord marquis of Granby and Mr. Pelham, who led him from thence to the Chair; where, upon the first step, he said,

"It is my duty to inform gentlemen, that it is yet in their power to re-consider what they have done, by calling me back to the place from whence I have been brought hither."

But the Members cried "No! No!"

Whereupon Mr. *Onslow* ascended the upper step of the Chair, and standing there, said,

"Since gentlemen have commanded me to the place I am now in, it becomes me to return the House, as I do, my humblest thanks for this fresh mark of their kind regard and favour to me."

And thereupon he sat down in the Chair; and then the mace, which before lay under the table, was laid upon the table.

Then the right hon. Wills earl of *Hillsborough* in the kingdom of Ireland, one of the burgesses for the borough of Warwick, and comptroller of his majesty's houshold, said,

Mr. Speaker; I stand up only to make the usual motion of adjournment, after the election of a Speaker; but I cannot deny myself the pleasure of taking this opportunity to express the high satisfaction I feel in seeing you, Sir, again raised to that great and important office: the uncommon ability and invariable integrity with which I have had the honour to see you discharge the duties of it, in two successive parliaments, are the foundation of that satisfaction.

I beg leave, Sir, to congratulate the House on their having placed in the Chair, one who is thoroughly acquainted with the constitution of this country, and with the laws and privileges of parliament; and who has always placed his glory in the defence and support of them.

I congratulate the elder part of the House, whose particular duty it is to support and advise the Chair, when there is occasion for it, on the ease and security they will feel in the consideration, that the business of parliament is to pass through your hands; and that the honour and dignity of this House are the immediate objects of your attention.

Those members, who have never before sat in parliament, and the younger part of the House, will give me leave to congratulate them on the indulgence you will shew them—indulgence which I have often experienced, and hope you will still continue to me; and on the instruction you are always willing to give in every way, and constantly do give in the most pleasing and efficacious way, that of example.

Sir, I congratulate the nation in general; for give me leave to say, that you are

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called to that Chair by the unanimous voice of the collective body of the people, as well as by that of their representative.

We have received the king's command to present the Speaker to his majesty to-morrow: you will then, Sir, be confirmed in your high office: his majesty will confirm you, Sir, as one whom he knows to be a true and steady friend to liberty, and to this constitution, and, of consequence, zealously attached to his royal person and family.

And now, Sir, give me leave to congratulate you upon the greatest human reward virtue and merit can receive, the concurrent approbation of the best of kings, and of all your fellow subjects. I move you, Sir, that this House do adjourn till to-morrow.

And the House adjourned accordingly.

Next day, the House being met, and the Speaker elect having taken the Chair, a Message was brought by the Gentleman Usher of the Black Rod. "Mr. Speaker; the Lords, authorised by virtue of his majesty's commission, desire the immediate attendance of this hon. House in the House of Peers." Accordingly, Mr. Speaker elect, with the House, went up to the House of Peers. Where Mr. *Speaker* elect spoke to the effect following:

"My lords; his majesty's faithful Commons, in parliament assembled, have, in pursuance of his royal direction, and according to their ancient right, proceeded to the election of one of their members to be their Speaker in this parliament; and their choice has again fallen upon me for this great trust.

"From what has passed in several former parliaments, with regard to myself, I did not presume to dispute the commands of the Commons upon this occasion: it is for the same reasons, and from the like principle of duty, I forbear to urge any thing here, against their present resolution, but resign myself entirely to his majesty's pleasure; well knowing his own royal wisdom can have best determined his own choice, either to approve or disapprove what his Commons have now done."

Then the *Lord Chancellor* said,

"Mr. Onslow; the king has had such ample and satisfactory experience of your great abilities and zeal for the service of himself and your country, in the important station to which you are now a fifth time called by the general voice of his faithful Commons, that his majesty has commanded us to let you know, that he entirely approves the choice which his Commons have made; and we do, by virtue of his majesty's commission, and in his name, allow and confirm you to be their Speaker."

Then Mr. *Speaker* said,

"My lords; since his majesty has been pleased to approve the choice the Commons have made of me to be their Speaker, it becomes me to submit to his royal determination, and to receive, with all humility and thankfulness, this fresh instance of his royal grace and favour to me; and, for my encouragement therein, I have an humble hope of the continuance of his pardon of my failings and infirmities in it; at least that they will not, in any wise, be imputed by his majesty to his faithful Commons: and that they may be the better enabled to perform their duty to his majesty, and their country, I do, in their name, and on their behalf, by humble petition to his majesty, lay claim to all their ancient rights and privileges; particularly, That they, their servants, and estates, may be free from arrests, and all other molestations: That they may enjoy freedom of speech in their debates, and have access to his royal person, as occasion shall require: And that all their proceedings may receive from his majesty the most favourable construction."

Then the *Lord Chancellor* said,

"Mr. Speaker; we have it in command from the king to acquaint you, that his majesty is fully persuaded of the prudence and temper of his House of Commons, as well as of their loyalty and duty.

"And we do by virtue of his majesty's commission, and in his name, declare to you, that the king grants and allows to them all their privileges, in as full and ample manner, as they have at any time heretofore been granted or allowed by his majesty, or any of his royal predecessors.

"As to what you, Sir, have desired on your own behalf, the king has never, through a long course of years, had any reason to apprehend, that you can stand in need of such an indulgence; but his majesty has commanded us to assure you of his gracious support in the discharge of your great and arduous trust; and that he will put the most favourable construction both upon your words and actions."

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The House of Commons being returned, Mr. *Speaker* reported, "That the House had been in the House of Peers; where his majesty, by his commissioners, had been pleased to approve of the choice the House had made of him to be their Speaker; and that he had in their name, and on their behalf, by humble petition to his majesty, laid claim to all their ancient rights and privileges; particularly that they, their servants, and estates, may be free from arrests, and all other molestations: That they enjoy freedom of speech in their debates, and have access to his royal person as occasion shall require: And that all their proceedings may receive from his majesty the most favourable construction; which, he said, his majesty, by his said commissioners, had confirmed to them, by granting and allowing their privileges in as ample manner as ever they were granted or allowed by his majesty, or any of his royal predecessors."

Then Mr. Speaker did again return his humble thanks to the House for the very great honour they had now done him; and did assure them of a continuance of his fidelity in their service; humbly requesting the continuance of their protection, and assistance to him in the discharge of this great trust, and of their indulgence to him in the pardon of his failings and imperfections in it; which, he said, he had now much more reason to desire of them than ever before, as his age, and the infirmities attending that, did the more require it. He then put them in mind of their duty, to observe and keep strictly to the Rules and Orders of the House, and particularly to avoid all personal altercation, and whatever shall lead to that in their debates. He lastly recommended to gentlemen an earlier attendance upon the business of the House; the neglect of which, he took notice, had grown to a degree of late, that had rendered the proper doing of business almost impracticable; and wished therefore, that against the next session, gentlemen would think of some effectual methods to prevent the continuance of so great an evil."

After which Mr. Speaker put the House in mind, that the first thing to be done was to take the Oaths, and make and subscribe the Declaration, and to take and subscribe the Oath of Abjuration, by law required. And thereupon Mr. Speaker first alone, standing upon the upper step of the Chair, took the said Oaths, and made and subscribed the Declaration, and took and subscribed the said Oath of Abjuration. And after him, several other members took the said Oaths, and made and subscribed the said Declaration, and took and subscribed the said Oath of Abjuration.

One Bill for the naturalization of a person was then passed by both Houses, and received the royal assent by commission: after which the parliament was, on the 5th of June, prorogued till November 14.

SECOND SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 14, 1754. The King opened the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"It is with great pleasure that I meet you in parliament, at a time when the late elections have afforded my people an opportunity of giving fresh proofs of their duty and affection to my person and government, in the choice of their representatives.

"The general state of affairs in Europe has received very little alteration since your last meeting. But I have the satisfaction to acquaint you, that I have lately received the strongest assurances from my good brother the king of Spain, of his firm resolution to cultivate friendship and confidence with me, with reciprocal acts of harmony and good faith; and that he will persevere in these sentiments. It shall be my principal view, as well to strengthen the foundations, and secure the duration of the general peace, as to improve the present advantages of it, for promoting the trade of my good subjects, and protecting those possessions, which make one great source of our commerce and wealth.

"The plan formed by the last parliament for appropriating the forfeited estates in the Highlands to the public benefit, appears to be of such national importance, that I am persuaded you will not omit any proper opportunity of completing it. Let me also recommend it to you, to make such farther provisions, as may be expedient for perpetuating the due execution of the

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laws, and the just authority of my government, in that part of the United Kingdom.

" Gentlemen of the House of Commons;

" I have ordered the Estimates for the ensuing year to be prepared and laid before you. The supplies which I have to ask of you, are such as shall be necessary for the ordinary services; for the execution of such treaties as have been communicated to you; for consolidating and maintaining that system of tranquillity, which is my great object; and, at the same time, for securing ourselves against any encroachments.

" The gradual reduction of the National Debt, which has been so wisely and successfully begun, will, I make no doubt, have your serious and constant attention.

" My Lords and Gentlemen;

" It is unnecessary for me to use any arguments to press upon you unanimity and dispatch in your proceedings. I have had such ample experience of the fidelity, zeal, and good disposition of my parliaments, during the course of my reign, that I trust there is a mutual confidence established between us; the surest pledge of my own, and my people's happiness.

The Lords' Address of Thanks.] His majesty having retired, the following Address, moved by the earl of Waldegrave and seconded by the earl of Breadalbane, was agreed to:

" Most Gracious Sovereign;

" We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Speech from the throne.

" We are truly sensible of your majesty's wise and public-spirited views, to strengthen the foundations, and secure the duration of the general peace, in which every part of Europe is so nearly interested: and nothing can excite our warmest gratitude more than that concern which you are pleased to express, that the advantages of this peace may be rendered lasting to your people, by promoting their commerce, and protecting those possessions which are so essential to it, and are an object of the public care never to be departed from by this country.

" The friendly assurances which your majesty has lately received from the king of Spain give us great satisfaction; as we promise ourselves that they will be followed with very salutary effects, for advancing the important ends already mentioned, in which both nations will find a reciprocal benefit.

" Your majesty's goodness to your people, in consenting to apply the forfeited estates in the Highlands to those public uses to which they stand appropriated by the last parliament, will always be thankfully remembered by us. We shall, with the greatest readiness, concur in any provisions that may render that measure as perfect and useful as possible, for improving that part of the United Kingdom, and preserving its tranquillity.

" The enforcing the due course and execution of the laws, and securing the authority of your majesty's government there, of which those laws have always been the rule, are one and the same object: which will not fail to meet with our constant attention.

" Permit us, Sir, to take this opportunity to renew the most solemn assurances of our inviolable fidelity and affection to your sacred person and government. In this, our duty and our interest unite, and are inseparable. Our resolution is fixed and unalterable, to strengthen your majesty's hands, for preserving the peace, supporting the honour of your crown, and maintaining the rights and possessions of your kingdoms against any encroachments. The maxim graciously laid down by your majesty, " that a mutual confidence between you and your parliament is the surest pledge of the happiness both of king and people," is highly worthy a British monarch: And it shall be our zealous endeavour, to demonstrate to the world the stability of that confidence; and, under the protection of the Divine Providence, to transmit to our posterity the blessings of your majesty's reign in the perpetuity of the Protestant Succession in your royal House."

The King's Answer.] To which Address the King gave this Answer:

" My Lords,

" I return you my hearty thanks, for this very dutiful and affectionate Address. The zeal you express for my person and government, and for maintaining the rights and possessions of my crown, cannot fail to have the best effects both at home and abroad. The confidence you repose in me shall always be made use of for the true interest of my people."

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*Debate in the Commons on the Address of Thanks.**] The Commons being returned to their House,

Sir *George Lee* rose and said:

Sir; as the custom of addressing our sovereign by way of answer to his most gracious Speech from the throne, and in that answer taking some notice of every thing he has been pleased to mention in his Speech, has been so long established, that I cannot think I have any great occasion to say much in favour of the short motion with which I intend to conclude; but as I think it extremely necessary, in the present conjuncture, that our Address should, if possible, be unanimously agreed to, I must observe that no gentleman can, with respect to his future conduct in this House, be tied down by any expression made use of in our Address upon this occasion, nor can any thing we now say be pleaded against an inquiry into any late public measure, even though it should seem to have been approved of in the Address now agreed to; and when this is duly considered, I cannot suppose that any gentleman will refuse, or object to our shewing the same complaisance to our sovereign at the beginning of this session, that has been usually shewn at the beginning of every session for many years past, especially as this session may very properly be looked on as the first of a new parliament.

This, Sir, would, in my opinion, be of itself sufficient to prevent any opposition to the motion I am to make; but there is another and a much stronger reason, which is, that there is nothing mentioned in his majesty's speech, but what is notoriously known to be true, and evidently appears to be right, and therefore we can have no pretence for enquiring into, much less to censure, any late public measure that is so much as hinted at in the speech now before us. The court of Spain have not only declared in the most explicit manner, their resolution to cultivate a friendship and correspondence with his majesty, but have shewn that this declaration is sincere, by giving express orders to restore all the British ships and effects that have been taken or seized since the suspension of arms agreed to by the treaty of Aix-la-Chapelle, or to pay their full value to the respective sufferers out of the royal chest; and as it is so much the interest of both nations to cultivate a friendship and good correspondence with each other, we cannot but applaud the wisdom of his majesty's measures, as they have already produced so good an effect.

Then, Sir, as to the affairs of Europe in general, every one knows, I believe, that no material alteration has happened in them since our last meeting in this House; and whilst they are kept in the same situation the public tranquillity must be preserved. This must be acknowledged to be a great happiness to Europe in general, but more especially to this nation in particular, as our well being depends upon our trade and commerce, which must be interrupted by every war that may happen in Europe, because it is hardly possible to suppose any war in Europe in which it will not become necessary for this nation to engage on the one side or the other. We are therefore, in gratitude, as well as duty, bound to acknowledge his majesty's wisdom and his goodness in taking all proper measures for the preservation of the public tranquillity; especially as he has at the same time taken all possible care of our self-defence; and if our possessions, or our just rights, have been or should be invaded, by any power whatsoever, or in any part of the world, I am sure, no gentleman in this House will in the least scruple to assure his majesty, that we will support him, and that we will cheerfully grant such supplies as may give weight and efficacy to whatever measures he may think necessary for the preservation of the general peace, or for vindicating his just rights and possessions against every sort of encroachment.

This, I say, Sir, is an assurance which no gentleman in this House can refuse taking the first opportunity to give to his majesty; and the more unanimous we are in giving it, the more united we appear to be amongst ourselves, the greater effect it will have; for I am convinced that no court in Europe will ever venture to attack this nation, or to make any incroachment either upon our rights or possessions, unless they have some ground to hope, that by our divisions our government will be rendered unable to exert our national strength; therefore I hope we shall likewise unanimously concur in what his majesty has so wisely recommended to us, with respect to the salutary plan formed by last parliament, for appropriating the forfeited estates in the Highlands of Scotland to the public benefit, and for giving a

* From the London Magazine.

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due force to the execution of the laws in that part of the United Kingdom*. By so doing we shall soon be able to stifle every seed of disaffection, if there be any still remaining, and when we have done this, the natural courage of the people of that country will be a great addition to our natural strength, instead of being a draw-back upon it, as it has been for too many years past. And if proper care be taken to propagate and encourage trade and manufactures, especially fisheries, in that part of the island, we may very considerably add not only to the national produce, but what is of much greater consequence, to the number of our seamen, and consequently to our naval power; for from the very nature of the country it is, I think, evident, that if prudent measures be pursued, there is not a man, at least not a labouring man, in the numerous islands upon the western coast of Scotland, but what might be from his infancy bred a seaman, because the ocean in their neighbourhood is known to be so plentifully stored with fish, of all kinds, that if the people could dispose of them when taken, they would employ themselves in fishing for some sort or other the whole year round, except just in the seed time and harvest, and such fishermen will always become thorough bred seamen, by being but a few weeks on board a man of war; so that these islands might in a few years become an inexhaustible nursery for our navy, and thereby prevent in a great measure our being ever reduced to the method of pressing, which has been so long complained of, and has, I fear, too often been the cause of great oppression.

This recommendation from the throne, is therefore, Sir, a proof not only of his majesty's wisdom, but of his constant attention to the true interest of the nation and to the good of his people, even in the remotest corners of his dominions, consequently, no gentleman can, I think, suppose, that it ought to be passed by without any notice in our Address upon this occasion; and his so particularly recommending to us a gradual reduction of the national debt, is another proof of the same wisdom and attention; for the paying off a part of that debt yearly must be attended with numberless advantages to the nation. In the first place, it will enable us in a few years to reduce still lower the interest payable upon our public funds; and every such reduction will be an advantage to the landed interest, as well as to the trade and manufactures of this kingdom. To such of the landed gentlemen as have any mortgage upon their estates it will be an immediate advantage, as it will enable them to reduce the interest payable upon the mortgage; and to all the landed gentlemen in the kingdom, it will be an advantage, as it will raise the value of their lands; for the price of land estates will always rise in proportion as the interest payable upon our public funds is lowered, which has been fully manifested by late experience. At the providential and happy accession of our present royal family to the throne, when most of our public funds were at 5 or 6*l.* per cent. it is well known, that the common price of lands throughout England was at 20, or but a little above 20 years purchase. Since that happy period our public funds have been gradually reduced to 3 or 3 ½ per cent. and the consequence we know is, that land estates now sell for 30, or above 30 years purchase; so that now a gentleman who has 1,000*l.* a year estate, with a mortgage of 10,000*l.* upon it, may get rid of that mortgage by the sale of one third part of his estate, whereas at that time he must have sold one half of his estate in order to pay off such a mortgage.

Then, Sir, with regard to our trade and manufactures, the advantages that will accrue to them by a gradual reduction of the National Debt, and the interest payable upon the same, are innumerable: I shall mention only a few of the most general: in the first place, it will force a great number of people into trade by rendering it impossible for them to live upon the interest they may have for their money in the public funds, which must necessarily add greatly to the national stock of money employed in trade and manufactures. In the next place, our merchants and manufacturers will generally be such as begin with a much greater stock than is usual at present, and consequently they will be be more able to carry on any scheme of trade, and to push it to a greater length than can be done at present. And in the third place, both our merchants and manufacturers will, and must be satisfied with a less profit upon their trade than they are at present; for it is generally supposed that no man will be at the trouble to carry on any trade, unless his profits, after all risk and all charges deducted, amount to double what he may have by employing

* See Vol. 14, p. 1235.

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the same sum of money at interest, or in our public funds; consequently, when the interest of money is at 5*l.* per cent. no man will carry on any branch of trade in which he cannot make 10*l.* per cent. free profit; whereas if money were at 2½ per cent. he would be satisfied with 5*l.* per cent. free profit, and as multitudes would be engaged in every branch of trade, their mutual rivalship would compel every one of them to be contented with that profit. The advantage this would be of to our trade in general is evident; for if the manufacturer must have 10*l.* per cent. profit upon all the manufactures he works up, and the merchant 10*l.* per cent. profit upon all those he exports, all our manufactures must go to the foreign market with a load of 20*l.* per cent. for profit, besides all other charges; whereas, if both the manufacturer and merchant should be satisfied with, and under a necessity to carry on their trade at a profit of 5*l.* per cent, all our manufactures would then go to the foreign market with a load of only 10*l.* per cent for profit, and consequently might be sold 10*l.* per cent cheaper than they are at present, which would secure to us all the foreign markets we are still in possession of, and probably recover many of those we have lost.

I could mention many other advantages, Sir, which would accrue to the nation by a reduction of the National Debt, and of the interest payable upon the same; but what I have said will be sufficient to shew his majesty's wisdom, and his attention to the true interest of the nation, in recommending this measure so particularly to our consideration; and consequently we cannot, I think, omit taking some notice of it in our Address. A sovereign so mindful of the good of his people, deserves the utmost gratitude, as well as complaisance, from this assembly; and I must congratulate my country upon the prospect we have of having the same happiness continued to us under his majesty's successor, who is not only indued with all the most amiable natural qualities, but has been bred up under a most accomplished mother, and instructed by her to imitate the virtues of his grandfather, and to tread in the steps of his father, whose loss this nation can never too much lament.

I shall no longer waste the time of this assembly, Sir, which is in many respects so precious, but conclude with moving, "That an humble Address be presented to his majesty, to return his majesty the thanks of this House for his most gracious Speech from the throne, and to assure his majesty, that his faithful Commons will gladly embrace every opportunity of testifying their inviolable attachment and duty to his royal person, family, and government; to express the great satisfaction it gives us, to find, that the wise measures which his majesty has pursued, for strengthening and securing the general peace, have been attended with so explicit a declaration on the part of the king of Spain, of his resolution to cultivate friendship and correspondence with his majesty; to acknowledge, with the highest sense of gratitude, his majesty's constant and uniform endeavours for the preservation of the public tranquillity, at the same time that he hath not suffered his attention to be diverted from the necessary consideration of self-defence; and to assure his majesty, that we will support him, and cheerfully grant such supplies, as may give weight and efficacy to his majesty's measures, for the preservation of the general peace, and enable him to vindicate his just rights and possessions from all encroachments: to promise his majesty that nothing shall be wanting on our parts, to complete and render effectual, to the common benefit of the United Kingdom, that salutary plan, formed by the last parliament, for appropriating the forfeited estates in the Highlands to the uses of the public; and to assure his majesty, that the gradual reduction of the National Debt, and the improvement of trade and commerce, so essential to the strength and power of this kingdom, shall be the objects of our serious and constant attention."

Colonel *Henry Conway:*

Sir; the motion made by the hon. gentleman is so very short, and he has so fully explained and so strongly enforced the necessity of our agreeing to every article of it, that though I rise up to second it, I neither can, nor indeed do I think, that I have any occasion to add much in its favour. I shall therefore avoid entering into the particulars of the Address proposed, and confine myself entirely to that of shewing how necessary it is for us to be unanimous upon the present occasion. Although the affairs of Europe have undergone little or no alteration since our last meeting in this House, yet every one knows, that the pretensions set up by the French, and the encroachments they have made upon us in America, are such as we

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cannot tamely submit to. His majesty certainly acted, as he always does, a wise and a prudent part, in endeavouring to accommodate these disputes by negociation; but if this cannot be done, if they will not amicably agree to give up their groundless pretensions, and to depart from their unjust encroachments, we must take proper measures for compelling them to do so. How are we to do this? I have as good an opinion of the strength of my country, and of the courage of my countrymen, as any gentleman can reasonably entertain; but I must confess, I do not think that single and alone we are a match for the power of France, considering how much it has been increased within this last century, and how firmly the people of that country are now united under a sole and absolute monarch. Even under our Plantagenets, when our kings were by hereditary right in possession of several of the finest provinces in France, we never got any thing but glory by our wars in that country, except when the people were divided, and one half of them joined with us against the other, which was the case in the reign of our Henry the 5th; and though that brave prince conquered a great part of France, yet in the very next reign, they not only recovered what he had conquered, but beat us out of almost every part of that country which properly belonged to our sovereign.

If this was the case, Sir, when the people of that kingdom were so much divided, what can we expect now when they are not only firmly united, but their territories vastly enlarged, and their military power very much increased? Even so late as in the reign of their Lewis 13th, which is not much above a century ago, their regular army did not amount to above 20,000 men, whereas now they keep up, even in time of peace, a regular army of 180,000 men, and we know by experience, that in time of war they can increase it to 3 or 400,000; for since that time they have added several rich provinces to their dominion: they are now in possession of a great part of the Spanish Netherlands: they have annexed to their kingdom the fertile province of Alsace, with the important city of Strasburgh; and within our own memory they have added to their former acquisitions the whole territory of the late duke of Lorrain. Besides all this, Sir, they have, since the fatal treaty of Utrecht, vastly increased and improved their colonies both in the East and West Indies, and have extended their trade to every point of the compass. It is true, they have of late neglected their marine: that is to say, they have neglected to provide themselves with a sufficient number of ships of war; but such ships may be built and purchased in time of war as well as in time of peace; and the extensive trade they are now in possession of, will furnish them with a sufficient number of seamen whenever they have occasion for them; so that before we could by ourselves alone compel them to accept of equitable terms of peace, they might become superior to us at sea, and then they could, and certainly would, compel us to present them with a carte blanche, as their public revenue is vastly superior to ours, and their people much more numerous.

After having said so much, Sir, of the present power of France, I think it necessary to declare, that I do not say so with any design to terrify my countrymen, or to induce them to yield to the groundless pretensions of France, or to submit to their unjust encroachments. No, Sir, we have a resource which will always be effectual, as often as we find it necessary to make use of it, and that is an alliance with those powers upon the continent of Europe who have as much reason to be jealous of France as we have. In this we must always have a great advantage over France, because none of them can ever be jealous of this nation, and most of them must always be jealous of France; consequently, it will at all times be easy for us to form such a confederacy upon the continent, as will be able to set bounds to the ambitious views of France when she attempts to extend them too far, either against us, or against any of our allies. Such a confederacy I know must be supported and invigorated by large sums of money from this nation, and it may perhaps be said, that we are not now in a condition to furnish the sums that may be necessary for that purpose; but I am far from being of that opinion: I should be extremely sorry if I were. But on the contrary, I am fully convinced, that we may yet support such a confederacy longer than France can support a war against it; for against such a confederacy the French would be under a necessity to maintain such numerous armies at land, that it would be impossible for them to render themselves equal, much less superior to us at sea, in which case we could very soon put an entire stop to their trade,

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and this would in a very few years render it impossible for them to maintain sufficient armies for defending themselves by land, as they have no gold or silver in their country but what is brought in by their trade, and their people are very often in want of the staff of life, so that they would be in danger of starving, if a stop should be put to their receiving any supply of corn from this or any other foreign country.

This, Sir, is the way of thinking which I have the pleasure to be of; and I am the more confirmed in this way of thinking, because our late reduction of the interest payable upon our public funds, is a proof that our public credit still stands upon a firm foundation, and because I am fully convinced, that our public revenue might by a few proper regulations be vastly increased, even without imposing any new taxes. But, supposing, Sir, that for supporting such a confederacy some new taxes, or an increase of some of the present, should become necessary, that necessity must be submitted to. I am sure, there is not an English Protestant in the kingdom who would not cheerfully submit to it, rather than see his country reduced to a slavish dependency on France, which would in a few years be the certain consequence, should we now submit to the groundless pretensions, and the insulting encroachments lately made by her upon this nation in America. The forming of a new confederacy in Europe is therefore, I think become absolutely necessary, unless France will amicably agree to give up all these pretensions, and to depart from all these encroachments; and nothing can contribute more effectually either to the one or the other of these than an appearance of unanimity among ourselves. If upon this occasion there appears to be an entire confidence between his majesty and his parliament, and a perfect unanimity amongst ourselves, it may induce the court of France to accept of a reasonable accommodation of all our present differences, and if it should not have this desirable effect, it will render it easy for us to form such a confederacy in Europe, as may either presently, or in a few years, compel that haughty and ambitious court to do so; therefore I hope the Address proposed by my hon. friend will be agreed to without so much as one contradictory vote; for nothing could give me more joy than to see a *nemine contradicente* at the head of this motion.

Mr. *Thomas Potter:*

Sir; I shall readily grant, that the custom of echoing back, in our address to our sovereign at the beginning of a session, every thing that was mentioned by him in his speech from the throne, is a custom that has prevailed for a great many years; but from our Journals it will appear, that it was not the custom of our ancestors; and as I think it not only inconvenient, but inconsistent with a British House of Commons, I wish it were laid aside; for the speech must always by us be presumed to be the speech of the ministers, and whatever complaisance we owe to our sovereign, we are so far from owing any to his ministers, that by our very constitution we ought to be always a check upon their conduct, and should therefore avoid saying any thing about the measures that have been pursued, until after we have had an opportunity to enquire fully into them. To presume, that the speech from the throne at the opening of a session is the speech of the ministers, must appear to be a most reasonable supposition, even from the speech now before us; for we cannot suppose that his majesty, whose candour and strict regard to truth are so well known, would in any speech of his composition have told us, that the general state of affairs in Europe has received very little alteration since our last meeting. Is not this nation a part of Europe? Can it be said, that our affairs have received no alteration, when it is so well known that the French have actually attacked us, and have murdered a great number of our people, as well as robbed many others, in America? I call it murder and robbery, Sir, because it was done without any declaration of war; and it is a mere sophism, unworthy even of a minister, to say, that no alteration has happened in Europe, because this happened in America. Sir, if our ministers had acted with such a spirit as becomes this nation, there would have been before now an open war between the French and us in Europe as well as in America; for we ought to have declared war against them, the moment we had heard of their attacking us in America. This would have been acting not only with a proper spirit, but with the most consummate prudence; because every hour we delay doing so, is giving the French, who are not prepared, time to prepare for war, and losing a most precious time for ourselves.

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Another reason, Sir, for presuming, and indeed for being convinced, that the speech now before us is the speech of the ministers, appears evidently from the omission of our rights in America. I was at first surprised to hear the protecting of our possessions mentioned, and not a word of recovering our rights; but when I reflected that the speech was certainly drawn up by our ministers, I presently saw that they had two strong reasons for this omission: the first was, that it would have been a reflection upon their late conduct, and a sort of confession, that they had tamely allowed our rights in America to be usurped, which it is certain they have done for a great many years past, and which they took no care to rectify by what they called their definitive treaty at Aix-la-Chapelle, though they then had in their hands, and restored by that treaty, an island, which the French would gladly have redeemed at the expence of all the usurpations they had made upon us ever since the treaty of Utrecht, as it is an island without which they could not have protected their own settlement in Canada, and by which they may very much annoy all our settlements in America, in case of a new war between the two nations, which, in my opinion, must very soon happen, unless our ministers be allowed to sacrifice our rights in America to the obtaining of a dishonourable, a precarious, and a short-lived peace; for that they have some such design in petto is to me apparent, from their having omitted to mention the vindicating our rights in the speech now under our consideration; and this I take to be the second, and perhaps the chief reason for that omission.

This design, Sir, the hon. gentleman has taken care in some measure to obviate in the motion he has made, for otherwise I should certainly have proposed an amendment to his motion. But I hope before the end of this session, we shall take care to prevent, in a more effectual manner, the execution of any such design; I hope we shall find time to enquire into the state of our affairs in America, and conclude that enquiry with an address to the throne, setting forth our rights, and the usurpations that have been made upon us by the French in that part of the world; and if found necessary, with a Bill for uniting our strength there, which will certainly be the most effectual way both for vindicating our rights, and for preserving our possessions in every part of America. I say, Sir, in every part of America; for whatever may be the present disposition of the court of Spain, it is certain that they have formerly set up pretensions which we cannot submit to; but as those pretensions, unless pursued too far, can be of no dangerous consequence, and as it is the mutual interest of the two nations to be well with one another, I do not think that an express surrender of one side, or a forcible vindication of the other, can ever be absolutely necessary; therefore, I hope, that that court has not only made such a declaration as is mentioned in the speech now before us, but that they are sincere in that declaration; for if they are, they never will pursue their former pretensions in such a manner as to do any real injury to this nation; therefore, though I know nothing of it, I shall without scruple agree to what the hon. gentleman has proposed upon that head, with a proviso, however, that I shall not be supposed to be bound by any thing now said in the address upon that or any other subject.

But, Sir, with regard to the pretensions set up by the French, and the encroachments they have made upon us, they are of such consequence, that they cannot be so much as tacitly submitted to. If they are, I will now venture to prophesy, that all our settlements in America will in a few years be undone; for if by the forts they have erected, and those they propose to erect, they will make themselves absolute masters of all our friendly Indians: the Six Nations, the Cherokees, the Creeks, in short, all the Indian nations upon the back of our settlements, from Georgia to Nova Scotia, must submit to them, and become obedient to their most arbitrary commands; and if this should be the case, from what they have been doing ever since we sent a colony to Nova-Scotia, we may judge what use they will make of all these Indian nations, even in time of the most profound peace. With respect to this nation, Sir, the case between France and Spain is directly opposite: it is not the interest of Spain to make such a use of her rights, or pretended rights, as to injure or weaken this nation in particular: on the contrary, it is her real interest to favour us more than any other nation in Europe. Whereas it is, and always will be, the interest of France to injure and weaken this nation by every method she can contrive; and repeated, yea constant experience must convince us,

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that she will never be without an inclination. A speedy and a most explicit surrender of every groundless pretension, of every unjust usurpation, from her is, therefore, absolutely necessary for us. Our rights in America are all plain and certain: our possessions are indisputable: what reason, then, can we have for not insisting upon a categorical answer, and an immediate surrender, or upon the first denial or evasive answer, a declaration of war. The longer this is delayed, the worse it will be for us, as we shall be every day growing weaker and more despicable in America, and France will be growing stronger in America, and adding to her naval power in Europe, which are the only two sorts of her power we have, on our own account, any reason to fear.

As this, Sir, is now plainly the case between France and us, I wish the hon. gentleman had left out of his motion, our grateful acknowledgments of his majesty's endeavours to preserve the public tranquillity; for as war is so likely to happen very soon between France and us, I think it now high time to recur to the wise maxim of queen Elizabeth, which very often was, to endeavour to sow the seeds of dissention among her neighbours upon the continent, in order to preserve the tranquillity and promote the trade of her own kingdom. This, I say, Sir, should now be our maxim; for though I am very far from being of opinion with the hon. gentleman who spoke last, that it is impossible for us to stand single and alone in a sea war against France, yet I should be glad to see a war lighted up upon the continent against that nation, provided we did not engage to take any greater or other share in it than we found convenient, which we may always avoid doing when our allies call upon us for assistance, but can never avoid when we call upon them.

However, Sir, as the Address now proposed is much better, and more modest, than has been usual of late years, as the hon. gentleman has added a vindication of our rights, though not mentioned in the Speech, and as he has not proposed that we should talk of the affairs of Europe having received no alteration since our last meeting, I shall agree to his motion; for I rose up chiefly to enter my protest, that we may not be tied down by any thing said in our Address upon this occasion, which I now do in the most express and solemn manner, because I very much suspect, that when we come to examine into the state of the nation, and particularly into the state of the negociations which we have been carrying on at Paris, ever since the treaty of Aix-la-Chapelle, we shall not find all matters so right as this Address would seem to insinuate. I must confess indeed, that I expected nothing from those negociations, when I heard that we had meanly submitted to have them carried on in that city; but I could not suppose, that we should have submitted to their being carried on without effect for so many years; and I must say, that what happened after the treaty of Seville, and what has now happened after this last treaty, convinces me, that our ministers get things referred to the discussion of commissaries, on purpose to entitle them to give pensions to some of their favourites, and that they prolong this discussion in order to have a pretence for continuing those pensions.

Mr. *Henry Legge:*

Sir; in such a numerous assembly, I do not at all wonder at seeing gentlemen differ in their sentiments, upon every political question that can come before them, but in all such cases we should follow the maxim which has been often recommended in religious affairs, and which every good man, who is not an enthusiast, will observe: we should never be for altering or amending any old custom or establishment, unless we are very fully convinced of its being wrong; and even when we do think it a little wrong, we should submit to it, rather than introduce a division or a schism in the society, unless we think it such a one as must necessarily tend to the ruin of our country. That there may be enthusiasts in politics as well as religion, I believe, no gentleman will question, as we have so many fatal instances of it in the history of our own country; but, I hope, there are none such at present amongst us, and I have the more reason to hope so, as the hon. gentleman who spoke last concluded without proposing any amendment to the motion. Gentlemen have certainly a right to give their reasons for disapproving of any measure that has been pursued by the administration, or of any motion that is made in this House; but when they do not insist so much upon it as to produce any division in this assembly, or among the people without doors, it can do no harm, save that of needlessly taking up so much of our time, which at present we can pretty easily spare. Therefore, if any other gentleman rises up to give us

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his sentiments upon our present situation, I hope he will follow the example of the hon. gentleman who spoke last, and sit down again without moving for any amendment; for I should be sorry to see a division upon this occasion; and I must say, that my hon. friend who made the motion has, in my opinion, been careful to word it in such a manner as not to leave the least room for opposition.

In this, Sir, I must applaud his prudence; for nothing could be of greater prejudice to this nation, than to give foreign courts the least ground to suspect, from our behaviour at the opening of this new parliament, that there is likely to be a breach between his majesty and his parliament. That we ought at all times, and upon all occasions, to avoid, as much as possible, coming to an open rupture with any nation, will, I believe, be by every gentleman admitted: that we ought to do this not only as a trading, but as a Christian people, is evident. If, then, the French have lately encroached upon our possessions, or violated any of our rights in America, ought we not first to seek redress by negociation? Could we take any more effectual method for defeating the success of that negociation, than by giving the court of France cause to think, that we have not now the same complaisance for our sovereign that has been testified by every parliament, since the happy accession of our present royal family to the throne? Suppose the French should at last refuse to do us justice, and that we should from thence find it absolutely necessary to commence hostilities, may we not at the same time find it necessary to negociate some new alliances, in order to form a confederacy against the common enemy? Could we expect to succeed in any such negociation, if it should be suspected at foreign courts, that the parliament has begun to put no confidence in the wisdom and conduct of his majesty's government?

Thus, Sir, a division amongst us upon the present occasion, might not only render a war necessary, but might render it impossible for us to bring that war to a happy issue. Therefore, supposing that some gentlemen should really look upon the speech from the throne as the speech of the ministers, and upon some of the expressions contained in it to be such as they could not approve of, yet, I think, they should wave making any objections to the Address proposed, or insisting upon our departing from that custom, which has for so many years been observed without any interruption, as it would argue a diffidence in our sovereign, which might in the present conjuncture be attended with the most fatal consequences: whereas our agreeing unanimously to the Address proposed, cannot be attended with the least inconvenience, not only because of the parliamentary maxim which prevents any gentleman's being bound or restrained by what may be contained in our address upon any such occasion, but also because the motion now before us is, in my opinion, more modest than what has of late years been usual; for whatever doubtful or wrong expressions there may be in the Speech from the throne, my hon. friend's motion for an address is conceived in such terms, that there is not, I think, a word in it which can be reasonably objected to, nor any thing omitted which ought to have been expressed.

But now, Sir, with respect to the Speech itself, supposing it to be the composition of our ministers, if we lay all carping criticism aside, I do not think, there is an expression contained in it, that can justly be found fault with. If any little dispute that arises between any two powers of Europe could be said to be an alteration in the affairs of Europe, they could never be said to be for one month in the same situation; but unless the dispute be of such consequence as may very probably soon end in a war, and a war too in which this nation must take a share, the affairs of Europe may always be said, with respect to us, to be in the same situation; and therefore his majesty was in the right, as he always is, when he told us, that the state of affairs in Europe had received very little alteration since our last meeting; for with respect to the disputes between France and us, and the pretensions they have lately set up in America, they are of such a nature, that if we were to submit to and allow of every one of them, they could be of no advantage to that nation for ages to come: they have a much greater uncontested extent of country in that part of the world, than they can plant and cultivate for many generations; and therefore it is to be hoped, that the court of France will, after the matter has been properly enquired into, depart from all the pretensions they have lately made, and give us full satisfaction for all their late encroachments. If they do not, it must proceed from the wonted haughtiness of that court, or from

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their having an utter contempt of this nation; but if they persist in it, we have it in our power, thank God, to pull down their pride, and to convince them of their mistake, whenever his majesty shall think it convenient to make use of that power which Providence has put into his hands. But as to the necessity, or the time for doing this, I hope, it will be allowed, that the determination ought by our constitution to be left entirely to our sovereign; for as to peace or war, it can never be possible for this House to form a right judgement, because it must always depend upon so many circumstances of a secret nature, that they can never be known or communicated to such a numerous assembly: the very communication of them might quite alter their nature, and thereby render that determination imprudent, which before would have been perfectly right.

To find fault therefore with this expression in the Speech is, in my opinion, Sir, a criticism worthy only of a college in one of our universities, but is not surely proper to be made by this august assembly; and though the word 'rights' may be very properly inserted in our Address, yet it is a word of such an extensive and indefinite meaning, that I doubt much if it would have been prudent to have made use of it in his majesty's Speech from the throne. Besides, as we may very properly be said to possess whatsoever has been expressly yielded to us by treaty, or is now possessed by any of those Indian nations who have submitted to us, I believe, the word possessions will comprehend as much as we can have occasion to insist on. But supposing we are resolved, or should hereafter resolve, to assert our rights in America to the very utmost extent, can we be debarred from doing so by his majesty's not having mentioned our rights in his Speech upon this occasion? How far we may or ought to do so, must depend upon future events: therefore I must think it was a fresh instance of his majesty's wisdom, not to say any thing about our rights; for though we are in all cases to act with vigour, we ought always to act with prudence, and what may now seem to be prudent, may have a quite contrary appearance a year or two hence: we ought not therefore to begin with talking big about what we will do, which in private life is always the part of a bully, but in every part of our conduct to take care, that our actions shall exceed our words.

I hope it will now appear, Sir, that, supposing the Speech to have been the composition of his majesty's ministers, they did not omit mentioning our rights with a view to slur over any part of their own conduct, or with a design to sacrifice any of our rights in America, to the obtaining of a dishonourable and precarious peace. They wisely considered, that whatever light the Speech may be viewed in by this assembly, it will at all foreig ncourts be looked on as the Speech of the king of Great Britain to his parliament; and therefore they took care not to put any word into it that might look like bullying, nor to make use of any expression that might be supposed to insinuate our being resolved to assert our rights in America to their very utmost extent; for such a supposition might give an alarm to some courts who now look with unconcern upon the disputes between France and us, and who might from thence be induced to join with France against us.

But, Sir, if gentlemen are not satisfied with what I have said in relation to the omission of the word 'rights,' in his majesty's Speech from the throne, my hon. friend has taken care to give them full satisfaction, by inserting this critical word in his motion; and as the hon. gentleman who spoke last, seems inclined to approve of the motion as it now stands, I think it unnecessary to take up any more of your time upon this occasion.

Mr. *William Beckford:*

Sir; as the hon. gentleman who spoke last was pleased to allow, that any member of this House has a right, upon this occasion, to give his reasons for disapproving of the measures pursued by the administration, I hope the House will allow me to give my reasons for disapproving of some of our late measures, and in particular of the Speech now under our consideration; for as I look upon every speech from the throne to be a speech from the ministers, I must look upon every such speech as a measure of the administration, and consequently I cannot, without indignation, see any thing in it which I think inconsistent with the dignity of the imperial crown of Great Britain. That such professions may have been sent from the court of Spain, as are mentioned in the Speech from the throne, I do not at all question; because such professions from one court to another are very common; and I am sorry to say, they are most common when least in-

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tended to be fulfilled. At present, however, I am apt to believe, that there is more sincerity than usual in those professions, because it is, and will always be the true interest of the Spanish nation to cultivate a friendship and harmony with this, and because the present court of Spain seems to have no views inconsistent with the true interest of their country, which is a circumstance not very common with some of the courts of Europe. But granting all this to be true, I must think, it was inconsistent with the dignity of the crown of Great Britain to make this an article in his majesty's Speech from the throne. Shall the sovereign of the British dominions tell his parliament, by way of triumph, that any court whatever have resolved to be friends with this nation? Sir, it is what we may expect, it is what, I hope, we may compel, from any court under the sun; and therefore ought not to be mentioned upon such a solemn occasion. What must a Spanish Don think when he reads this paragraph? Must he not conclude, that we have been for several years begging the friendship of Spain, and that we are now in an ecstasy of joy at having obtained the favour? What a mean opinion must he not from thence conceive of the power and the spirit of this nation? How much must it exalt the natural haughtiness of that nation, of itself too apt to run into an insufferable excess!

This, Sir, I should not upon this occasion have taken so much notice of, but that I have with concern observed, that our ministers have for several years sacrificed the dignity of their country in every negociation, in every transaction, they have had with any foreign state. They might perhaps think, that those punctilios or ceremonies were of no consequence, provided we could, by the sacrifice of them, obtain the main end we aimed at; but I must tell them, that it is upon such punctilios or ceremonies that the dignity of a nation, as well as that of a private man, depends; and when either have lost their dignity, they become contemptible in the eyes of mankind. So sensible were the old Romans of this, such a regard had they for their dignity, that they often put themselves to death, in order to prevent their being made to do or suffer any thing unbecoming their dignity; and we find Julius Cæsar, at the beginning of the civil war, imploring the soldiers of his army, "ut ejus existimationem dignitatemque ab inimicis defendant." I am glad to find the court of Spain so wise and so just to their own people, as to resolve to cultivate a friendship with us, and I must say, that their not having done so for many years past, was more owing to our conduct than theirs, for we often forced them into the arms of France whether they would or no; and every one knows, that by the famous treaty of Hanover, we even joined with France for compelling them to break off the correspondence they had just then established with the court of Vienna; but if both of us have now at last found our mistake, and supposing that this new resolution is as sincere on their part as, I hope, it is on ours, surely it is beneath the dignity of our sovereign to talk of it upon any occasion, much less upon such a solemn occasion, as a mighty point gained for this nation. And to talk of it in such a manner is still the more unbecoming, as we have not yet felt any of the good effects of this resolution, nor have we as yet any proof of its being sincere. That they have sent such an order to their governors in America as was mentioned by the hon. gentleman who made you this motion, I do not in the least question, because, I am convinced, he would not have said so, if he had not been well assured of the fact; but I must inform him, that an order in the very same terms was dispatched by the court of Spain above two years ago, and in consequence thereof some of our suffering merchants applied for restitution to the Spanish governors in America: What was the answer? The ships and cargoes had been sold by public auction, consequently could not be restored; and as to the value, it could not be made good, because there was no money in the royal chest.

From hence we may see, that the court of Spain having again dispatched such an order to America, is far from being a proof of their sincerity; but this is not all, we have several late and positive proofs of the insincerity of their professions. Are they not now disturbing our logwood cutters, and seizing our logwood ships, in the bay of Honduras? Are they not now openly and avowedly preparing to attack us upon the Musqueto shore, which we have been long in possession of, and consequently have a right to by the treaty of Utrecht, and every treaty between the two nations since that time? Nay, do they not continue to seize and condemn; have they not lately seized and condemned se-

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veral of our merchant ships upon the high seas of America, on pretence of their having contraband goods on board? These facts I do not mention from hearsay, Sir, I speak from state papers, or from what I have myself severely felt; and when these facts are so notorious, and so inconsistent with any professions of friendship, shall we express our satisfaction in any such professions? Sir, I before spoke of the dignity of the crown or the nation, let me now speak of the dignity of this House: gentlemen may talk of our shewing the usual complaisance to our sovereign; but complaisance founded on falsehood is the very lowest sort of flattery, and such flattery is beneath the dignity of a private gentleman, much more of such an august assembly. Can any man without doors believe, that we have a satisfaction in professions of friendship, which are so evidently contradicted by notorious facts? Whoever thinks so must have a mean opinion of our wisdom, whoever thinks otherwise must have a contemptible opinion of our sincerity. Can either of these ways of thinking be consistent with that character which a British House of Commons ought to preserve among the people? and if this House should once lose its character among the people, the certain consequence will be the establishment of an absolute and arbitrary monarchy, or of an absolute and more arbitrary aristocracy.

But now, Sir, after having thus shewn the apparent inconsistency between the professions and the practices of the court of Spain, I must say, that I wonder to hear our ministers so much as talk of their having just obtained an order from that court, for restoring the ships taken from us after the suspension of arms, previous to the treaty of Aix-la-Chapelle. It is now above six years since that suspension: it is above six years since it must have been known in America; consequently above six years since an account might have been made up of the value of all the ships taken by them from us, or by us from them, after that suspension, and the balance fairly stated. Surely, we took some ships from them after that suspension, as well as they from us; and if the balance had been stated, I am apt to believe, that they would have had a demand upon us, instead of we upon them. This, Sir, makes me suspect, that our ministers have made satisfaction to the Spaniards for all the ships taken by us from them, and have left our suffering merchants to recover satisfaction from the court of Spain by an endless negociation; and this I am the more apt to suspect, as I have heard a surmise, that we are this very session to have a demand made upon us on this very account. If this be really the case, I leave it to gentlemen to consider, what every British subject ought to think, what every foreigner will think, of the conduct of our ministers; but if any such demand as I have mentioned be made, it will then be proper, and I think incumbent upon this House, to enquire a little further into this matter.

I have now done with Spain, Sir, whose professions of friendship we seem to be so proud of, and next let me take some notice of France, whose menaces some gentlemen amongst us seem to be so much afraid of. It is a common observation, that fear magnifies every approaching danger, and accordingly those gentlemen upon every occasion make use of all their oratory to exaggerate the power of France, and to extenuate the power of their native country. According to them, Sir, it is impossible for us to contend with France, without the assistance of a powerful alliance upon the continent of Europe: one may easily see their secret motive for inculcating such a doctrine; but I will say, that the only thing we have to fear in a war with France, is our being forced into such an alliance by a cause which is far from being truly British. We have no occasion to attack France by land in Europe, nor can they attack us; therefore we can never, on our own account, have occasion for such an alliance: they have a foreign commerce, they have foreign plantations: I am sorry they have so much of either: their having got so much of both is chiefly owing to our late fondness for an alliance upon the continent of Europe. In both these we may, by ourselves alone, attack them with advantage, because we are as yet greatly superior in naval power, and must continue to be so during the war; for during a war with this nation, it will be impossible for them to increase their naval power, as they have no naval stores but what must be imported from America, or from Norway, or the Baltic. From America they must fetch them by the river Mississippi, or the river St. Laurence, and at both we may easily intercept every ship that sets her nose to sea. Then with respect to Norway or the Baltic, every ship that carries naval stores to France from thence must run the gauntlet through the British channel, or go

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round by the north of Scotland, in both which courses it will be almost impossible for her to escape falling into the hands of some of our cruizers. This, Sir, they were so sensible of in queen Anne's war, that after the sea fight off Malaga, where they seemed to have something the better of us, they never attempted to refit their navy, nor did they any more think of encountering our squadrons at sea: and the case will now be the same, if by their obstinacy they force us into a war.

Thus, Sir, we must continue superior at sea, and in two or three years all the French colonies upon the continent, or in the islands of America, must of themselves fall into our hands; because they cannot subsist without a supply of provisions from Europe; and we have as good a right to prevent provisions being carried to them by any neutral state, as we have to prevent provisions being carried by any neutral state into a town which we have invested and blockaded. What signifies it, Sir, to talk to us of the numerous armies of France? Can they come to Britain, can they be sent to America, whilst we have such a superiority of naval power? The French, it is true, Sir, have of late years added considerably to their dominions in Europe and have increased their colonies in America; but their dominions in Europe can no way injure us; and our colonies in America, have of late years increased much more than theirs; so much more, Sir, that we have there, I believe, twenty men to their one, and unless we have very much degenerated from what we were in the days of our Edwards and Henrys one Englishman may always be reckoned at least equal to one Frenchman. By confining ourselves therefore to a maritime war, and a war in America, we have from the nature of things every reason to expect success; and this is confirmed by our experience in the last war. It was then our success at sea that set bounds to the victorious armies of France in Europe, and procured us the peace at Aix-la-Chapelle, which might have been much better than it was, if some of our allies had not been seized with a panic, or if our ministers had duly considered the advantage we had at sea, and the distress to which the French were thereby reduced: their trade lay bleeding at every vein, their colonies were in the most imminent danger of being reduced to a starving condition; and even in France itself, many of their poor labourers and manufacturers were actually dying for want, when that famous vote was passed in this House against prohibiting the exportation of our corn.

It is therefore evident, Sir, both from reason and experience, that in a war with France, we have at present no occasion for an alliance with any power upon the continent of Europe. On the contrary, by any such alliance we may be absolutely undone, because it must necessarily engage us in the supporting of a war against France upon the continent of Europe, and the expence of this we are in our present circumstances absolutely unable to support. The last war, in seven or eight years, cost us near 50 millions, though we had no particular concern in the quarrel: can we expect, that a war which is entered into by our allies, upon our particular account, will be less expensive to this nation? Must we not expect, that every one of our allies will rise in their demands upon us? How can we support such a monstrous expence? We can support it no way but by annually stretching our credit to the utmost. How ticklish a thing is credit, either public or private? No one can say how far it may be stretched, but he that has said to the ocean, "hitherto shalt thou come and no further." Suppose that in the second, third, or fourth year of such a war, our present bubble of paper credit should blow up: the supposition, Sir, is far from being chimerical: the fate of the subscription before the end of the last war must convince us that it is not. If such a misfortune should happen, the confusion that would ensue is hardly to be imagined. Every man possessed of any paper would endeavour to realise; and so far from the public being able to borrow upon any new fund, no private man would be able to raise money upon any old fund he was possessed of. We should then be unable to pay any subsidies, or to maintain any foreign troops, and our allies being deprived of our support, would every one make the best peace for himself he could.

But the worst misfortune, Sir, is still to come; a great part of our ready specie would be carried out of the kingdom, by such foreigners as should take the first alarum, and sell the property they have in our public funds: a continued run would be made upon the bank and upon all our bankers, so that all of them would at last be obliged to stop payment, and those who had got possessed of our remaining

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specie would lock it up, no one of them would part with a shilling but for his immediate support. By this means a full stop would be put to circulation, and as every private man's credit would become suspicious, very few of our manufacturers or merchants would be able to carry on their trade. In such a general distress it would be impossible for the people to find money to pay the land or the malt tax, and as most of our other taxes depend upon the consumption of what is not absolutely necessary for the support of life, they would come to nothing. Thus our public revenue might at once be so reduced, that it would be impossible for our government to keep our squadrons at sea, and France becoming thereby superior to us upon that element, we should become a prey to their numerous and victorious land armies.

I am sorry, Sir, to set such a dismal picture before the eyes of my countrymen; but it is better they should now see the picture, than that they should ever hereafter see the original; and for their comfort I shall now write at the bottom of it: the original of this you can never see, unless you foolishly engage in foreign alliances, and rashly undertake to carry on a war against France upon the continent of Europe. But on the contrary, if you confine yourselves to your own element, you have the highest probability, that every new war will add to your trade, and extend your dominion in America. The ridiculous doctrine, that a balance of power in Europe must be supported chiefly at the expence of this nation, is now, I hope, Sir, rooted out of every British bosom: at least, if a distemper of the mind can be cured by purgation, which the doctors say it may, I am sure we have undergone three such violent purgations of blood and treasure, that nothing of this distemper should now be remaining in the mind of any true British subject. But supposing some dregs of it still to remain, how can they operate at present? France is not now aiming at any extension of her dominions in Europe: she can have no pretence for any such aim, unless we furnish her with it, by purchasing the assistance of some of the powers upon the continent. She is now aiming only at extending her dominions in America. We alone can prevent this: we ought long since to have prevented it. The assistance of any power in Europe would be a disadvantage to us; because the defence of them in Europe would do us more harm, than their assistance in America could do us good.

The example of queen Elizabeth, Sir, has been often recommended in this House, but it can never be too often recommended, nor ever more properly than upon this occasion. In her reign the power of the House of Austria was much more formidable than that of France is now; and the power of this nation not near equal to what it is at present. She likewise had a pretender to her crown, much more dangerous than the one we have at present, because the then pretender was openly patronised by the House of Austria, and by a great and violent party in France, besides being secretly supported by a much greater number of Papists in England, Scotland, and Ireland, than are now to be found in these three kingdoms; yet she never courted, much less purchased a foreign alliance. She was, indeed, always ready to give assistance to her friends upon the continent when they sued for it, but she never engaged to give them a greater assistance than she might find convenient, or such a one as might be burthensome upon her own people. Nay, even when Spain attempted to invade her with a more formidable naval armament than France is now able to fit out, and really such a one as she could not fairly encounter in a regular sea-fight, yet she scorned to sue for the assistance of any foreign power, much less did she think of bringing foreign troops into the kingdom; though it may be supposed that some of the German princes would then have been as ready to have taken our money, as we have found them since that time.

From the example of queen Elizabeth I therefore hope, Sir, that whatever may be the event of our present disputes with France, we shall hear no more of any foreign alliance, or of any scheme for attacking France upon the continent of Europe. If the French persist in refusing to do us justice, let us attack them upon our own element the ocean: If we attack them any where by land, let it be in America, where we are sure of the utmost assistance our colonies can give, without subsidy or reward; for though we have for several years treated them in such a manner that they have some reason to be indifferent whose power they may hereafter fall under, yet I am sure they will all join heartily with us in driving the French as far as possible from their confines. And if this be our sole design, we have no oc-

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casion to fear any bad consequence from our returning to the ancient parliamentary method of addressing. The French know us too well to suppose, that it foreboded any breach between his majesty and his parliament, or that we had begun not to put a thorough confidence in our sovereign. They might indeed suppose, that it foreboded a change in our administration; and nothing, I believe, would more conduce towards their hastening to make us satisfaction. Ever since the treaty of Aix-la-Chapelle we have been in the same wretched state with respect to France, in which we were for several years after the treaty of Seville, with respect to Spain. For several years after that treaty, whilst our pusillanimous ministers were negociating at Madrid, the Spaniards were plundering and committing depredations upon our merchants in the seas of America: and now ever since the treaty of Aix-la-Chapelle, whilst our ministers have been negociating at Paris, the French have been encroaching upon us, and building forts upon our territories in America. When a difference happens between us and any other nation, I shall never be against a short negociation, for endeavouring to accommodate the matter in an amicable manner; but in every such negociation it ought surely, Sir, to be a preliminary article, that with respect to the matter in dispute, nothing new shall be attempted by either side during the continuance of the negociation. This was neglected by our ministers in both these negociations; from whence it would seem, that the ministers who commenced the latter had been apprentices to those who commenced the former. Can we ever expect satisfaction from France in an amicable manner, whilst our negociations are under the direction of such apprentices?

If, therefore, Sir, by returning to our ancient parliamentary method of addressing, we could persuade the court of France, that the conduct of our affairs is soon to be put into the hands of ministers of a very different turn of mind, it would be the most effectual method we could take, for inducing that court to do us justice in an amicable manner; for they must know, that they are no way able to carry on a war by sea, or in America, against this nation; and therefore, if they do provoke us to it, they must trust to the bad conduct of our present ministers, or to their hopes that we shall be drawn in by foreign counsels to involve ourselves in a heavy and expensive war upon the continent of Europe. To defeat their hopes upon both these heads will always be in the power of this House, and I trust in God, that in due time we shall make a proper use of our power. But as this is not absolutely necessary at present, and as I do not think that our agreeing to the Address as it now stands, will be attended with any notable mischief, I shall not be against it, unless some other gentleman proposes what I may think a proper amendment.

Mr. *Horatio Walpole*, sen.:

Sir; I have often wondered to hear the ancient method of addressing so much talked of in this House, as if any particular method were a part of our constitution, or had been always uniformly observed. I am, Sir, amongst the oldest, if not the oldest man in this House; and ever since I remember, the method has been much the same with what it is at present. It has been the same ever since the Revolution, and before that time it cannot be said that we had ever any fixed constitution. It was always precarious, and met with some alteration not only under every new sovereign, but almost under every new administration. Therefore, I hope, I shall no more hear of our returning to our ancient method of addressing, as the present method is what has been observed ever since we can be said to have had any fixed constitutional sort of government. And whatever the hon. gentleman who spoke last may think of what his majesty has been pleased to tell us of the professions of friendship lately made by the court of Spain, it must give a pleasure to every man who wishes well to this kingdom, and is not biassed in his judgment by some private interest of his own; for as the Spaniards, as well as we, must, or at least always ought to be jealous of the power of France, it is our mutual interest to unite together: and in the present conjuncture, when there is such an appearance of a war between France and us, it must in a particular manner be agreeable to us, to find that Spain is not like to join with France against us, notwithstanding the known connection and near relation that there is still, to our misfortune, between the sovereigns of these two powerful monarchies.

The imparting of this piece of advice was therefore, Sir, so far from being unbecoming, that it was a fresh instance of his majesty's goodness, and of the constant

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desire he has to contribute, as much as he can, to the ease and happiness of his subjects: I mean, such as are not led by their private interest to wish for a war with Spain; for that there may be such amongst us every one must grant, who considers what rich prizes may be taken in time of war from the Spaniards, and what profits may be made by forcing a trade with their dominions in America. This, it is true, will always put a great deal of money into the pockets of some private men amongst us, but the people of this country in general will get more by the trade between the two nations in time of peace, because of the great concern our merchants always have in the Spanish flota, galleons, and register ships. For this reason, a friendship and good correspondence with Spain must be agreeable to the people of this nation in general; and we are not to judge of the effect of the order lately sent by the king of Spain to his governors in America, from what was the effect of the like order sent two years ago; for we know, that ministers often take private methods for rendering the orders of their sovereign ineffectual, therefore in all such cases the complexion of the court for the time being is to be considered, and it is well known, that the complexion of the court of Spain two years ago, was not so favourable for this nation as it is at present: nay, it may even be suspected, that two years ago M. Ensenada might send private orders to the Spanish governors in America for defeating the public orders sent to them by his master; and every thing that has been lately done, or attempted to be done by the Spaniards in America, must have proceeded from the influence of the same minister; so that for the future we have reason to expect better treatment in that part of the world, and consequently we have from what is past no reason to doubt the sincerity of the professions of friendship now made by the court of Spain.

I am, from many circumstances, Sir, persuaded, that the professions now made by the court of Spain are hearty and sincere; and I think I have great reason to rejoice in that persuasion; for if France alone be more than a match for this nation, surely the most sanguine amongst us could not expect, that we should be able to stand single and alone in a war against France and Spain. Against both united together I do not think we could stand single and alone even in a sea war, because of the necessity we should be under of dividing our naval strength, by having a strong squadron in the Mediterranean, another in the West Indies, and a third upon our own coast, besides the great number of cruizers and convoys we should always be obliged to have at sea, for protecting our own commerce, and for ruining that of our enemies. Against France alone, I shall grant, we may be at present sufficiently able to carry on a sea war, because our naval strength is, I believe, at present very much superior to theirs; but I am not so sanguine as to suppose, that we could preserve that superiority during a long war, if France should continue free from any war upon the continent of Europe. They might resolve to suspend carrying on any commerce in their own shipping for three or four years: they might resolve even to leave their colonies in America a sacrifice to us for that time; and to keep all their ships of war in port where we could not destroy any of them, until they had got such a number of ships new built as might render them superior to us at sea. That they might be able to accomplish this in three or four years time, no one can doubt, who considers the absolute power and the vast revenue which the French monarch is possessed of; and one general and complete naval victory would enable them not only to recover all they had lost in America, but also to extort from us as much as they pleased to demand in that part of the world.

This, I fear, Sir, would be the consequences of our standing single and alone for three or four years in a war against France, and this consequence we could not prevent, because we could not hinder neutral powers from carrying any sort of naval stores to France, as no naval stores of any kind are by any treaty comprehended among those goods that in time of war are to be deemed contraband, but on the contrary, are by most treaties expressly declared not to be contraband: nay, iron, copper, and brass, are likewise declared not to be contraband; so that in time of a war with us the French might not only build as many ships of war, but cast as many cannon for the use of those ships as they pleased. Therefore, in my opinion, we have no way of preventing the French becoming an overmatch for us, even at sea, but by cultivating and engaging such an alliance upon the continent of Europe, as shall give them so much to do in defending themselves at land, that it shall

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not be in their power to spare money enough for repairing, much less for increasing their naval strength. It was by this means, Sir, that we got the better of them both in king William and queen Anne's wars; for at the beginning of both they were very near an equal match at sea for the Dutch and us united together. Every one knows, that in 1690, they obtained a complete victory over the combined squadrons of England and Holland near Beachy-head, by our court's sending a rash and ridiculous order to our admiral, the lord Torrington, to engage the enemy, though greatly superior to him in strength. But luckily for us the French court committed the same mistake in 1692, by which means we got an opportunity to pay them back with usury at La Hogue, the little advantage they had gained over us at Beachy-head; and as they were then vigorously attacked by our allies at land, they could not spare money for repairing, much less for increasing their navy before the end of that war.

Again, Sir, in queen Anne's war, at the beginning of it, they appeared formidable even at sea, and in 1704, engaged the united squadrons of England and Holland in the Mediterranean near Malaga. Here indeed, they did not obtain any victory, as the hon. gentleman seemed to insinuate; though they were superior in strength, as I could prove by an old ballad, which shews that it was a drawn battle; but they might have continued to be formidable at sea, if the glorious victory, which the duke of Marlborough obtained that summer at Blenheim, had not put an end to all their naval projects; for from that time they were under such difficulties to defend themselves at land, that they were obliged to leave their men of war to lie rotting in their harbours, and thought of nothing but annoying our trade by their privateers. As they suffered so much in that war, and as it was soon after followed by a long minority, they could not for many years think of re-establishing their navy; and their ministers probably judged very wisely, that there was no supporting a respectable navy, without a great number of thoroughbred seamen, which no country can have without an extensive commerce or great fisheries. For this reason they applied themselves chiefly to these two improvements, and had brought both to a very great height before the beginning of last war, but had neglected to re-establish their navy, which neglect they were soon made sensible of, as neither commerce nor fisheries can be protected in time of war without an equality at least of naval power. This they saw they could not aim at whilst they were engaged in such a heavy war at land, and therefore they endeavoured to put an end to it as soon as they could.

Thus, Sir, we may see, that in all the wars we have been lately engaged in against France, our preserving a superiority at sea did not proceed from our preventing their getting a sufficient supply of naval stores, but from our pressing them so hard at land, by means of our allies upon the continent of Europe, that they could not spare money enough for purchasing that supply; and to suppose, that the other nations of Europe, or even those who are our firmest allies, would bear our telling them, that they must not trade with France or any of the French dominions, because of their being all blockaded by us at sea, is really, in my opinion, a supposition too chimerical to be entertained by any sober mind. The very attempt would unite most of the states of Europe in a confederacy for pulling down the overgrown naval power of England; and I hope it will not be so much as supposed, that we are able to carry on even a naval war against all the maritime powers of Europe; for every nation that borders upon the sea, may in some degree be called a maritime power, as every one of them has at least some seamen, if not some ships of war; and even our navy, formidable as it is, would be in a most dismal and dangerous situation, if it had not a port in Europe to retire to upon occasion, except those belonging to ourselves alone.

From what I have said, Sir, I think it is evident, that if we should stand single and alone in a war against France, they might in three or four years become superior to us at sea, and the moment they did so we must submit to a carte blanche, because they could then bring their numerous land armies into this island, and might make a conquest of it in one single campaign. For preventing this we have no way left but resorting to that which is now, and, I hope, will always be at our command, a powerful confederacy upon the continent of Europe; and whatever the melancholy apprehensions of some gentlemen may suggest, I make no doubt of our being able to support it as long as we shall have occasion; for France is involved in debt as well as we are, and the people of France do not seem to be so unanimous or so zea-

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lous for a war upon the present occasion, as the people of this country appear to be; and I must say, that both are very much in the right, because the people of France know, that they are contending for boundless wastes, from whence neither they nor their posterity can draw much advantage for ages to come; whereas we are contending for the preservation and security of a well cultivated country, inhabited by our own countrymen, and of infinite present advantage to the people both of Britain and Ireland: nay, of such advantage, that many thousands, in both islands, owe the whole of their subsistence to our colonies and plantations in America.

For this reason, Sir, I was glad to hear, that our colonies were able to support themselves. I therefore hope they will not stand in need of much assistance from us; but if they should, we must give it. Even for them we must fight as if we were fighting *pro aris et focis;* for it is to them we owe our wealth and our naval strength. Our trade thither is the chief nursery for our seamen: and the imports from thence by being again exported, is what alone keeps the general balance of trade in our favour. These imports have been increasing for many years: I hope they will continue to increase both in quantity and kind; and I am glad to find, that we have lately had a new sort of import sent us from thence: I mean, that of consummate politicians, though I am afraid we shall never get much by the export of this commodity.

The Earl of *Egmont:*

Sir; among the many paradoxes I have heard upon different occasions from the mouth of the hon. gentleman who spoke last, no one ever surprized me more than to hear, that we had no fixed constitution before the Revolution: I shall readily grant, that almost every administration has in some respects acted contrary to our constitution; but a breach of our constitution is not surely to be called an alteration of our constitution; for if it were, I am afraid, it could not be justly said, that we have had a fixed constitution since the Revolution any more than before, as ministers have since frequently acted contrary to our constitution, which the hon. gentleman from his long and great experience must be fully sensible of. This doctrine has indeed prevailed a great deal too much of late years; but I am very much surprised to hear it maintained or propagated by one who pretends to be a friend to the Revolution, and to the royal family now upon our throne. What was the cause of the Revolution? Was it not because the prince then upon the throne had acted contrary to, and was endeavouring to subvert our constitution. How could this be true if we had then no constitution? Thus, Sir, some gentlemen are ignorantly or very unadvisedly endeavouring to undermine the very foundation of the Revolution; for if we had then no constitution, the king upon the throne must have been absolute, and consequently the Revolution could have been nothing but a rebellion. But it is certain, Sir, that we had a constitution, and a most regular and wise constitution, not only before the Revolution, but ever since we had a monarchy; and the end of the Revolution was to restore and secure that constitution for which our ancestors had so often sacrificed their blood, and I hope their latest posterity will always be ready to follow their example. This, I say, Sir, was the end of the Revolution, and a great many good consequences have ensued, among which I must reckon the establishment of our present royal family the chief; but, as in all human affairs, among these good consequences some bad ones have crept in, and among these I must reckon this complaisant method of addressing at the beginning of every session; for however much it may be sanctified by custom, it would look very odd in the eyes of all foreigners to see the Commons of England, in their address to their sovereign, approving by the lump of all the measures pursued by his ministers, and in a week or two afterwards impeaching those ministers for those very measures, which may happen to be the case in some future session of parliament, if this complaisant method of addressing should be continued; for at the opening of a session, and before any lights have been laid before parliament, no one can say, whether the ministers may, or may not deserve to be impeached, for some of the measures hinted at in the Speech from the throne, and perhaps hinted at on purpose to obtain the usual lumping approbation.

For this reason, Sir, though I highly approve of the Revolution, and upon a more solid foundation than any gentleman can have, who thinks we had no constitution before that time, yet I cannot approve of this method of addressing; and as little can I approve of another doctrine now ad-

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vanced by some amongst us, and strongly inculcated by the hon. gentleman who spoke last, which is, that we can by no means be able to stand single and alone in a war against France, because, said he, though we be at present superior to them in naval power, yet during the course of the war they would increase their navy, and if not diverted by any war upon the continent of Europe, they might in three or four years increase it so much as to become superior to us at sea. Sir, if there were the least foundation for this doctrine, I should think this nation in a most wretched and lamentable situation; for if the French could in the time of war with us so much increase their navy, surely they could with more ease and conveniency increase it in time of peace, and consequently, if they continue at peace with us, and all the rest of their neighbours, we have but three or four years to continue masters at sea, at the end of which short term we must, according to this gentleman, submit to a carte blanche, if the French should then please to demand it, or purchase a confederacy upon the continent at any price our allies might then think fit to insist on, which in such a case would, I fear, be much higher than we could possibly pay. Nay, as the Dutch have of late years so much neglected their marine, no such confederacy could protect us; for the French, by being masters at sea, would prevent their landing any troops in this island, and if they could, as the hon. gentleman says, make a conquest of this island in one campaign, they would complete that conquest before any confederacy upon the continent could penetrate far into their frontiers, which are upon all sides guarded by so many well fortified cities and towns; and such a conquest would not only put an end to any support we could give to such a confederacy, but would turn the wealth and the power of this nation against it.

What a wretched condition, Sir, are gentlemen reduced to, who, in order to prove that we are not able to stand single and alone in a war against France, must grant, that we have but three or four years to continue a free and independent nation; for this is the unavoidable consequence of their argument, unless we could now purchase at such a price as we are able to pay, such a confederacy upon the continent as would not only enable us to prescribe, but join with us in prescribing such terms of peace to France as the Romans prescribed to the Carthaginians at the end of the second Punic war, that is to say, that they should deliver up all their ships of war, and promise never to build any more; but such a condition I believe, no confederacy we can purchase could enable us to obtain, nor would any confederacy support us in demanding, for among many other misfortunes attending a confederated war this is always one, that none of the parties concerned can push their success further than the rest will give them leave, nor demand any condition from the enemy which the rest will not concur in.

I persuade myself, Sir, that it will now appear evident, what a lamentable situation we should be in, were there any foundation for the doctrine, that we cannot stand single and alone in a naval war against France: I say, a naval war, Sir, because though carried on upon the continent or in the islands of America, yet it is nevertheless to be deemed a naval war. What thanks the broachers of this new doctrine may deserve from their country, I leave to others to judge; but for my own part I always was, and still am of opinion, not only that we may with hopes of success engage by ourselves alone in such a war, but that the longer we continue in such a war, the more we shall add to our own strength, the more we shall diminish that of the enemy; for it is impossible for France ever to render itself equal to us at sea, if we make the proper use of those advantages which nature has bestowed upon the dominions we are now possessed of, and those dominions, by the hon. gentleman's own acknowledgment, would be considerably increased during the first three years of the war. For proof of this, Sir, I shall first take for granted, that we could not prevent neutral powers from furnishing the French with all sorts of naval stores, and that by this means they had in three years built such a number of ships of war, as to have a greater strength in such ships than we now have, or could then have. What could they do with such ships? They could not in that three years increase their number of seamen, nor could they get any of their landmen seasoned to the sea; for if they sent out any ships for this purpose, they would probably fall into the hands of our squadrons or our cruizers. This formidable navy therefore must upon its first appearance at sea be manned with landmen, who for the first week or two could neither keep their

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feet nor their health at sea, and with seamen who had been for three years continually at land, and who consequently would for the first week or two go very awkwardly about their business. Such a navy we might attack with half the number of ships, and with almost a certain assurance of success; and the consequence of our victory would be the destruction or capture of most of their ships, for such men could not manage their ships so as to make their escape.

I am therefore fully convinced, Sir, that if we should begin the war with a superiority at sea, we should increase in that superiority during its continuance, even granting that we could not prevent neutral powers from furnishing our enemies with naval stores fit for building or equipping ships of war; but this no man will grant who knows any thing of the law of nations; for a country blocked up by sea is certainly in the same state as to the laws of war, with a town blockaded by land, and consequently neutral powers may be prevented from carrying in any thing that may contribute towards its holding out, notwithstanding any former stipulation for determining what shall be deemed contraband goods; for in all such stipulations there is an exception as to towns or places besieged or blockaded; and Grotius cites with a seeming approbation the story of Demetrius, who hanged up the master and pilot of a neutral ship for attempting to carry corn into Athens, after he had blocked it up by sea. No state in Europe could therefore justly find fault with our intercepting any naval stores designed to be carried to France by their subjects, and few of them would incline to do so, if they had justice on their side, as most of them are jealous of the power of France, and would be glad to see that monarch humbled.

Thus, Sir, it must appear, that during a war with France we can never have any reason to fear that nation's gaining a superiority over us at sea, but during a long peace we have some reason to fear such a misfortune, because in time of peace our parliaments are but too apt to grudge every public expence, and from a spirit of œconomy or jealousy may refuse to increase our navy, or the number of seamen we keep in continual pay, in proportion as the French increase their naval strength; for otherwise it will always be easy for us to increase our naval strength, as fast as the French can increase theirs.

After having now shewn, Sir, that we have no reason to dread engaging by ourselves alone in a naval war against France, I must add, that we ought never upon any such occasion to reject a proposal for making a powerful diversion against that nation by land, provided our allies upon the continent of Europe are willing to undertake it, without putting us to such an expence as must interrupt or interfere with the prosecution of the war by sea or in America; therefore I must observe, that the question, whether the preservation of the peace of Europe be a right or a wrong measure, must always depend upon the nature and circumstances of our disputes with France: when those disputes are such as we can have no prospect of getting settled to our liking without a war, it is then our interest to sow the seeds of discord, and to bring them to maturity as soon as possible, that our allies may be thereby induced to apply to us for assistance, instead of our applying to them; and as there seems to be a hint in the Speech of some new alliances, I shall take this opportunity to declare, that I shall not be against them, provided they be with such states as I shall think proper. Even subsidies, though I think they ought never to be granted in time of peace, yet in time of war, or when there is a near prospect of it, I think we must grant some, but then they ought to be granted only to such as can assist us effectually, and not to such as cannot grant us any such assistance as will of itself be effectual.

To conclude, Sir, though I wish we could alter the present mean way of addressing upon every such occasion, yet as we have at present some reason to be more complaisant than would otherwise be necessary, I shall not be against the Address which my hon. friend has proposed, nor do I think it absolutely necessary to offer any amendment; but as it was absolutely necessary to expose the weakness of the two pernicious doctrines which have been so artfully inculcated upon this occasion, I hope the House will excuse the trouble I have given them.

Mr. Attorney General *Murray*:

Sir; as there are a great many gentlemen in the House who were never in parliament before, I am persuaded, they will be pretty much at a loss what to make of this debate, or to reconcile it with what they no doubt have heard to be the rule of parliament. It is, and always has been

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the rule of parliament, that no gentleman should rise up to speak unless there be a proper question before the House. When a gentleman makes a motion to the House, he is to be sure to explain the meaning and the intention of the motion he is to make, with his reasons for making it; and the gentleman who seconds the motion may, if he pleases, give his reasons for seconding that motion; but no other gentleman is to speak to it, unless he be resolved to oppose the motion, or to propose some amendment. This is a rule of parliament so long established, and so generally known, that every gentleman without doors, as well as within, must have heard of it: and it is a most reasonable and necessary rule, as it prevents taking up the time of the House to no manner of purpose. But gentlemen who never were in parliament before will now see, that the rule and the usage of parliament are very different. The two hon. gentlemen who made and seconded the motion explained it fully to the House, and gave their reasons for making it in very few words, as those reasons were so plain and evident, that they stood in no need of any illustration. No gentleman, I find, intends to oppose the motion, nor has any addition, alteration, or amendment been proposed: all approve of the motion as it now stands; and yet we have been a long time debating, upon what I cannot comprehend: it is really a debate without a subject of debate; which certainly must in itself appear ridiculous.

But, Sir, the taking up the time of the House to no manner of purpose, is far from being the only or the least evil that has attended the debate upon this occasion. Many things have been said which, if carried abroad, may do the nation very great prejudice; and as there are a great many strangers in our gallery, I was therefore very sorry to hear many things said that have, I do not know for what end, fallen from gentlemen in the course of this debate. For example, I should be extremely sorry to hear of its having been told to the court of Spain, that we doubted of the sincerity of their professions, or that we apprehended that his Catholic majesty's orders to his governors in America would not, or could not be complied with. To doubt of a man's sincerity is an affront even to a private man; and as princes not only are, but ought to be more jealous of their honour than any private man need be, such a doubt or apprehension would certainly be considered as a heinous affront at the court of Spain, which is a court we ought never to affront, and certainly ought upon the present occasion to be more cautious of than usual.

I likewise think, Sir, that it could be of no service to us, to have it told abroad, that we are now to stand upon our own legs: that we are to have nothing further to do with the continent; nor to give ourselves any trouble about what may hereafter happen in that part of the world; for it might throw some princes into the arms of France, who have now no such thoughts; and whatever we may think of our naval power, such a resolution would give great encouragement and great obstinacy to the court of France; for there is nothing they apprehend so much as a powerful confederacy upon the continent of Europe against them, as neither the loss of their trade, nor the loss of their colonies, would frighten them so much as a party of German hussars approaching near to the purlieus of Versailles, which was one of the terrible consequences of the last glorious campaign of the duke of Marlborough.

And having mentioned the court of France, Sir, I must say, that I should be sorry for their hearing of the distinction we make between rights and possessions, and of our being resolved to vindicate by force of arms the former as well as the latter; for though I hope we shall do so, I must think that a previous declaration of our resolution is both imprudent and unnecessary. Other courts conceal their resolutions till they are just ready to act; but nothing can be concealed that passes in this House, and I am sure, we are not yet ready to act, nor is the season fit for it, if we were. For this reason our constitution, of which we have heard so much in this debate, has wisely lodged the power of peace and war solely in the crown, and I wish that gentlemen would leave it where our constitution has placed it. I shall add no more, Sir, lest I should be accused of what I am finding fault with; but conclude with recommending to gentlemen, for their own sakes, to observe the rule, instead of following the usage of parliament.

The Commons' Address of Thanks.] The following Address was then agreed to without a division:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave

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to return your majesty our unfeigned thanks for your most gracious Speech from the throne; and to assure your majesty, that your faithful Commons will gladly embrace every opportunity of testifying their inviolable attachment and duty to your royal person, family, and government.

"It gives us the greatest satisfaction to find, that the wise measures your majesty has pursued for strengthening and securing the general peace, have been attended with so explicit a declaration, on the part of the king of Spain, of his resolution to cultivate friendship and confidence with your majesty.

"We acknowledge, with the highest sense of gratitude, your majesty's constant and uniform endeavours for the preservation of the public tranquillity, at the same time that your majesty has not suffered your attention to be diverted from the necessary consideration of self-defence; and we assure your majesty, that we will support your majesty, and cheerfully grant such supplies as may give weight and efficacy to your majesty's measures for the preservation of the general peace, and enable your majesty to vindicate your just rights and possessions from all encroachments.

"We beg leave to assure your majesty, that nothing shall be wanting, on our parts, to complete and render effectual, to the common benefit of the United Kingdom, that salutary plan, formed by the last parliament, for appropriating the forfeited estates in the Highlands to the uses of the public; and we assure your majesty, that the gradual reduction of the national debt, and the improvement of trade and commerce, so essential to the strength and power of this kingdom, shall be the objects of our serious and constant attention."

The King's Answer.] The King returned this Answer:

"Gentlemen;

"I return you my thanks for your most dutiful and loyal Address.

"So early and unanimous a mark of the trust and confidence which my faithful Commons repose in me, gives me the greatest satisfaction.

"You may rely on the continuance of my endeavours to preserve the public tranquillity, to assert and vindicate the just rights and possessions of my subjects, and to do every thing on my part, which can render this nation happy and flourishing, both at home and abroad."

*Mr. Pitt's Bill for the Relief of the Chelsea Pensioners.**] As soon as the Address was agreed to,

Mr. *William Pitt*, paymaster general, stood up, and very pathetically set forth the hardships to which the out-pensioners of Chelsea-college were then exposed, by the method of paying their pensions; for after a poor superannuated or disabled soldier was admitted to the pension, by the then method, no part of it was to be paid to him, until a year after his admission, by which he was laid under a necessity to borrow money for his present subsistence, on terms often oppressive and usurious, from persons whom they for that reason called their usurers; and being thus at first laid under this fatal necessity, they continued under it as long as they lived, as few, if any, of them could ever in one year save as much out of what they borrowed from their usurer, as was sufficient for supporting them for the following. To remedy this grievance which lay so heavy upon these poor deserving men, he proposed to have it enacted, That all assignments, sales, orders, or securities of money to become due, on account of the said pension, to be granted by any out-pensioner, who should be admitted thereto after Dec. 25, 1754, should be null and void; and that every such pensioner should on his admission receive in advance such proportion of the pension, as should be equal to the remaining number of days of the current half year then unexpired, after which he should on his appearance, or affidavit that he was living during the whole or part of the half year preceding, and reciting the place of his abode, continue to receive the said pension in advance by half yearly payments. And as to pen-

* From the London Magazine.

"The usuries practised by the creditors of the Chelsea Pensioners, were at this time so flagrant, that Mr. Pitt, the paymaster general, moved for leave to bring in a Bill to prevent them, by rendering all contracts that mortgaged their pensions void, and by preventing the necessity which the poor pensioners were under to borrow upon their pensions, by advancing half a-year's pension before hand; whereas formerly a pensioner received nothing till the end of the first twelve-months after he was put upon the list. This humane Bill had a speedy passage through both Houses." Tindal.

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sioners then already admitted, or that should be admitted, on the pension list before Dec. 25, 1754, he proposed, that they should receive their pensions according to the rules and regulations then established, until that day, and from thenceforth to receive the same in advance, as before proposed, and that all securities for money to become due on the said advanced half yearly payments should be declared to be null and void. He further proposed, that in order to defray the expence of receiving and paying these pensions regularly, one shilling in the pound should be deducted out of all monies applicable thereto, to be disposed of as his majesty by his sign manual should direct; and that if any agent or clerk should exact any fee or gratuity on any account whatsoever, relative to the said pension, he should forfeit his office, together with the sum of 100*l.* and be deemed incapable of serving his majesty in any office or employment whatsoever. And he concluded with moving for leave to bring in a Bill for the relief of the out-pensioners of the royal hospital at Chelsea, which was immediately granted. Accordingly, the Bill was presented by Mr. Pitt on the 19th, afterwards passed both Houses without the least opposition, and received the royal assent Dec. 19, to the great joy of all the poor out-pensioners, and the equal disappointment of their old usurers.

*Debate in the Commons on extending the Mutiny Bill to America.**] December 9. The House resolved itself into a Committee on the Mutiny Bill, and made some progress; and on the 11th, it was ordered, that it be an instruction to the said committee, that they have power to receive a clause, or clauses, to provide "That all officers and soldiers, of any troops being mustered and in pay, which are, or shall be raised in any of the British provinces in America, by authority of the respective governors or governments thereof, shall, at all times, and in all places, when they happen to join, or act in conjunction with his majesty's British forces, be liable to martial law and discipline, in like manner, to all intents and purposes, as the British forces are, and shall be subject to the same trial, penalties, and punishments; after which the House resolved itself into a committee on the said Bill, and went through the same with several amendments, and with the addition of a clause in pursuance of this instruction; and on the 14th, the report was made, when the amendments, of which this additional clause was one, were agreed to, and the Bill ordered to be engrossed. On the 16th, a motion being made, that the said ingrossed Bill should be now read a third time, a Petition of William Bollan, esq. agent for his majesty's province of the Massachusetts bay in America, relating to the said additional clause, was offered to be presented to the House, and a motion made for bringing it up, which occasioned this debate:

Mr. *Robert Viner:*

Sir; it gives me not only great surprize, but infinite concern, to see any gentleman stand up to oppose the bringing up of this Petition; for should a negative be put upon such a motion, it will look as if we were resolved never more to shew any regard to the sentiments of the people we represent, in any case that may hereafter come before us. I shall indeed grant, that we are neither bound, nor ought to be determined by any petition, or any number of petitions, offered to us by the people without doors; but when there is nothing indecent in the petition, nor any thing that appears to be merely selfish, we ought at least to hear what the petitioners have to say. So much regard at least we ought even in prudence to shew to the people we represent; for if we once begin to shew no regard for them, it is natural to suppose, that they will have no regard for us; and if this misfortune should ever happen, it will be as easy and safe, as it was in 1653, for the general of our army, or a colonel of the guards by his order, to come with a party of soldiers, and turn us out of doors, after having ordered his serjeant to take that fool's bauble, our mace, away from our table.*

It seems now, Sir, to be an established rule, that we are to receive no petitions against a Money Bill: that is to say, we are to dispose of the people's property without any regard to the objections which they, or any of them, may have against it; and now, it seems, we are to dispose of their lives, as well as properties, without any regard to what they may think of the matter. I confess, I never was a friend to the Mutiny Bill: I always thought the punishments too severe in time of peace, or in any place not immediately exposed

* From the London Magazine.

* See Vol. 3, p. 1381, *et seq.*

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to the danger of being attacked by an enemy; but as our regiments, so far at least as relates to the common soldiers, are usually composed of the very lowest and most abandoned of our people, my concern for them did not give me much trouble; and perhaps it may be true, that such men cannot be kept under proper discipline, without being made liable to very severe and rigorous punishments: we cannot suppose, that many of them engage merely for the sake of serving their country; or that sentiments of religion, virtue, or honour, can have any great influence upon the conduct of many of them; but with respect to the troops now raised, or that may hereafter be raised in America, the case is very different: many of them may not perhaps be able to support themselves in the service of their country, without being paid by their country; but many of them have engaged, and many more of them will, I hope, engage, if you do not prevent it by this clause, merely for the sake of serving their country; they have sentiments of religion, they have sentiments of honour, and by such sentiments they may be kept under proper discipline without such rigorous punishments as are to be inflicted by this Bill upon our British mercenary soldiers.

This, Sir, we may be convinced of from the whole tenor of our American history: how many wars have our plantations from time to time been engaged in? Wars more cruel and more liable to ambuscades and surprizes, than any we have in Europe, and consequently, such as have always required a stricter discipline, if possible, than is necessary in this part of the world; and yet if we look into their militia laws we shall find, that they have but very few military crimes, and that most of their military punishments are only a very moderate fine, or a very moderate corporal punishment upon such as cannot pay their fine: nay, I do not know, that any of our plantations ever extended a military punishment to life or limb; and yet they have hitherto carried on and ended all their wars with glory and success. So powerful, Sir, are the motives of virtue, honour, and glory, where proper care is taken to cultivate them in the breast of the soldier, or rather where care is not taken to eradicate all such principles by the multitude and the severity of military punishments!

For this reason, Sir, I must think there is not the least occasion for such a clause as that against which the Petition now offered to the House so justly complains; but this is far from being the only reason for my desiring to have the Petition brought up; for in the first place, I think the clause not only unnecessary but dangerous: in the next place, I think it would be unconstitutional, and of the most dangerous consequence to pass it in the manner in which it has been brought in: and in the third place, I think the colony in whose name this Petition has been offered, is of so much consequence to this nation, especially at the present crisis, that we ought to shew the utmost regard to every thing that comes before us in their name; for we cannot suppose, that the agent offered or attempted to have a Petition presented to this House, without having previously advised with all the chief gentlemen of that colony that are now in London; and as that colony is more exposed, and is both able and willing to give us greater assistance than any other, in the prosecution of the war we are like to be engaged in, they surely are the best judges what are the most proper methods for carrying it on.

I have said, Sir, that the clause complained of by this Petition is not only unnecessary, but dangerous; and when I say it is dangerous, I mean something more than that of its being a new extension of martial law; for this danger is grown so familiar to us that, like an old veteran soldier, I believe we shall never be sensible of our danger before we are shot through the head. But by its being dangerous, I mean with respect to our success in the war we are now so likely to be engaged in. For the carrying on of this war with vigour, we must without doubt send a large body of our regular troops to America; but our success will be chiefly owing to the militia or troops raised by our several colonies in that part of the world: of what sort of men are these troops to be composed? Sir, it is doubly the interest of this nation to have them composed, as they usually are, of the gentlemen, freeholders, farmers, and master tradesmen of the country; because it is our interest to take as few as possible of their labouring men from their labour, for upon the produce of their labour our balance of trade in a great measure depends: and in another respect it is the interest of this nation to have these American troops composed of such men as I have mentioned; because we can best depend upon their courage and fidelity. I wish our British troops were still composed of such men: it was of such men that our armies

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of old chiefly consisted: it was by such armies that we reaped the laurels of Cressy, Nevil's Cross, and Poictiers, and brought both the king of France and the king of Scotland prisoners to London: and it was by such armies that we reaped so many laurels in the reign of our Henry 5, and at last placed our king upon the throne of France; for our barons and great landholders of those days did not think so much of increasing the rents of their lands, as of having them possessed by brave and expert soldiers, most of whom held the lands they possessed by knight's or military service. But as there are no such tenures in any of our colonies in America, their gentlemen, freeholders and farmers, cannot be forced into the service, nor are they to be tempted by that mercenary reward called listing money: they can be induced to serve their country in the war, no other way but by good usage and their own inclination; but can we think, that any such man will engage in the service, when he knows that he thereby subjects himself to be used as the common soldiers are in the British service, and to be tried for a crime he may be unjustly accused of by a court-martial, consisting chiefly perhaps of officers who serve merely for pay, and directed by a general long accustomed to the punctilios of our military discipline, and the severities of our military punishments?

I therefore think, Sir, that our adding this clause to our Mutiny Bill, is the most effectual way we can take, for preventing its being in our power to raise in America any such army as we can depend on, or at least that sort of army which is most to be dreaded by the enemy, and will be least hurtful to their mother country. At the same time I must think, that as our colonies are independent of one another, and consequently cannot agree upon any general law for the regulation of an army that is to be raised by all of them together: I say, I must for this reason think, that some new law ought to be passed by the British legislature, for the regulation of their troops, when acting either by themselves, or in conjunction with the British troops; but then in the forming of such a law great caution ought to be used, and all the chief gentlemen consulted who have been bred in any of our plantations, and are now in London. A law formed in this manner would have looked something like wisdom and deliberation; but the clause now before us, like many other of our public measures, savours of nothing but precipitancy and want of consideration; and the manner of introducing it is not only anti-constitutional, but of the most dangerous consequence. By our wise constitution, and the established rules of proceeding in this House, great care has been taken, that the people shall not by surprise be subjected to any dangerous or inconvenient new law: when leave is asked for bringing in any Bill, the purport and design of it must be fully opened to the House, and may be guessed at by the very motion itself which is printed in our votes: by this means the whole nation is apprized in some degree of what is intended, even before the Bill be brought in; and nothing of a new or extraordinary nature ought to be inserted in the Bill, without an instruction to the gentlemen who were ordered to prepare and bring it in; which instruction is likewise printed in our votes, and thereby communicated to the whole nation. Then, after the Bill is brought in, it must be read in this House, and when it is of great importance, it is generally ordered to be printed. Some days after this it must be read a second time, and then a few days must, or at least ought to intervene before it be committed; so that every one without doors, who from the title may think himself concerned, has time to get a copy of the Bill, and to petition against it before it comes the length of being committed; and no new clause ought ever to be added by the committee, either with or without an instruction, but such as appear to be necessary for explaining or enforcing some of the clauses then in the Bill, and consequently might be expected by all those who had before perused it.

Is this the case, Sir, with respect to the clause now before us? Could any one expect, that in a Bill for regulating the British regular troops, a clause should be added for subjecting to the same regulations all the militia in our plantations, who should engage to serve their country, and could not without pay from the public support themselves at a distance from their business and family? This could not so much as be suspected even by any one within doors, until the instruction was moved for on Wednesday last; and as our printed votes of that day did not probably come into the hands of any one without doors until Friday, I am surprised how the gentlemen of this colony, now in town, got a petition prepared to be offered this

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day to the House, especially as Saturday and yesterday are days that few gentlemen expect, or are in the way of any business. Therefore, if we have not this day had petitions offered from every one of our colonies, it must proceed from their surprise, and not from their inclination; and indeed, this precipitate way of proceeding seems to have been designed on purpose to prevent petitions; for that such a clause can be agreeable to any one of our colonies, no one can suppose who considers, that a soldier listed and mustered in any regiment, is subjected to martial law during life, unless the regiment be disbanded, or he be regularly discharged by his commanding officer; which is another consideration that must render it very difficult to raise any forces in America, and will absolutely prevent any man of fortune's listing himself as a common soldier.

But now, Sir, supposing that no material objection appeared upon the face of this clause, yet surely the petition of Massachusets Bay colony; a colony, where so many thousands of our people are now happily settled; a colony which contributes so much to the riches and power, especially the naval power of this nation; and a colony which may, and probably will, contribute more than any other to our success in the war we are like to be engaged in; I say, the petition of such a colony ought surely to meet with so much regard from this House, as to be allowed to be brought up and read at our table. Ministers of state may perhaps disdain to turn their ear to those who dare to arraign the wisdom of any measure they have resolved on; but I am so far from thinking it below me, that I shall always think it my duty, as a member of this House, to hear what any fellow countryman has to say against any measure, which at first view appears to me to be right. What will our constituents in Old England think of this House of Commons when they hear, that we have rejected a petition from such a number of their countrymen settled in New-England, without so much as allowing it to be read at our table? If it were near the end of the session, or if the season for action were approaching, we might have some reason for being a little precipitate in our method of proceeding; but as we have sufficient time before the end of this session, and before the season for action comes on, even to prepare and pass a particular and distinct Bill for regulating such forces as are, or may be raised by our colonies in America, we can have no excuse for putting such an affront upon such a colony, or for not proceeding with the most mature deliberation in an affair of so much importance; and our levies in America will certainly be carried on with much greater spirit, when they hear, that the legislature has set apart several weeks of a session, to consider and consult with their countrymen here, about the most proper regulations for governing the forces that are to be raised in that part of the world, in order to enable them to act with the greatest vigour against the common enemy, without encroaching upon their liberties as Englishmen, any further than is absolutely necessary in time of war.

For these reasons, Sir, I must think, that if we have any regard to the character of this House, of which it is as yet, and, I hope, always will be an honour to be a member; if we have any regard to our plantations in America; if we have any regard to our success in the ensuing, I fear unavoidable war, we shall not only order this Petition to be brought up, but shall hear it read with the utmost attention.

Mr. *Henry Fox:*

Sir; it is an usual and a very ancient practice in this House, when any gentleman has a mind to raise a debate upon any question that has been moved, to represent it as an affair of the utmost consequence, though perhaps it be nothing more than a motion of course, or a motion that may be either complied with, or rejected, without any danger or inconvenience to the public, or to any man, or body of men, in the kingdom; and this practice was never more apparent than in the case now before us. The hon. gentleman has taken care, not only to represent the clause now petitioned against, as an affair of the utmost consequence to our success in the war now like to happen, though I still hope it may be prevented; but he has also represented the Petition now offered to us, as an affair of such consequence, that the character, nay, the very being of this assembly, depends upon our allowing or disallowing it to be brought up. Now, I believe I shall be able to shew, that neither the clause itself, nor the Petition, can be looked on as an affair of any great consequence to the nation in general, or to any man, or body of men, in any part of the British dominions, and consequently, we have no occasion to take

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up much of our time in deliberating either upon the one or the other; and as the judgment we are to form with regard to the Petition, must depend upon that we have formed with regard to the clause, I must of course begin with the latter.

If his present majesty, Sir, were as jealous of his prerogative as some of his ancestors have been, we should have seen the debate upon the clause now under consideration take a very different turn: the clause itself neither could, nor would have come from any of the servants of the crown; but, on the contrary, would have been opposed by them, and represented as a most daring and anticonstitutional encroachment upon the prerogatives of the crown; for there is nothing more certain than, that in time of war our sovereign may, by his prerogative, establish such articles of war for the government and discipline of his armies, as he thinks proper and necessary for the purpose, and may by those articles prescribe not only the method of trial, but also what punishment shall be inflicted upon every crime therein mentioned or described. But our present most gracious sovereign, as he never desires to exercise any prerogative but for the good of the public, so he is always glad to have what he may do by prerogative enforced by act of parliament; and in consequence of his royal and wise condescension, we have seen this clause proposed to be added to the Bill, and we now see it supported by those who have the honour to be the servants of the crown. If no war should happen, there will be no troops raised in America, and consequently the adding of this clause to the Bill can be of no manner of signification: if a war should happen, there is nothing proposed by this clause but what his majesty may do by his prerogative, and consequently, our not adding this clause is really in itself of no signification. Thus it must appear, that the question, whether this clause is to be added to the Bill or no, is so far from being an affair of the utmost consequence, that it is really of no consequence at all, either to our success in any future war, or in any other respect whatever.

But, Sir, the hon. gentleman has thought fit to proceed a little further, and to arraign the wisdom of the regulations and punishments prescribed by the Mutiny Bill itself; as to which the best answer I can make is, that these regulations and these punishments have been for a number of years approved of, not only by the crown, but by many successive parliaments; and those who have had the honour of a seat in this House as long as I have, must remember, that almost every one of them has been some time or other contested, and after being fully debated, agreed to, generally by a very considerable majority. But, says the hon. gentleman, though these regulations and punishments may be necessary for preserving good order and discipline among our British troops, yet among the troops to be raised in America, such strict regulations, and such severe punishments, can never be thought necessary, because it is to be hoped, that these troops will consist chiefly of gentlemen, freeholders, farmers, and substantial tradesmen. I hope as well as he, Sir, that there will be many such men among the troops to be raised in America: nay farther, I hope, that many such will serve as volunteers without asking or taking any pay from the public; and as to all such they can have no concern with, nor will they be subject to the punishments prescribed by this Bill. But still we must suppose that, if there be a great number of troops raised in America, there must be among them many men of as low a rank as any we have in our troops here at home. As to gentlemen, or men of any character, they will, it is to be hoped, for the sake of their own character, perform their duty in the strictest manner, and if they do, they must observe every regulation prescribed by this Bill, consequently, neither the strictness of the regulations, nor the severity of the punishments, can give them any concern; and if such men neglect their duty, or become guilty of any military crime, they deserve to be more severely punished than men of a lower rank, because they have more knowledge or capacity, consequently, their offence must be deemed the more wilful, and is the less pardonable.

Men of rank or character cannot therefore, Sir, find fault with, nor can they be terrified from serving their country in our armies, by the strictness of these regulations, or the severity of these punishments, but, on the contrary, will be thereby invited to list themselves as volunteers, or even as common soldiers in daily pay, because they must see, that by such regulations and punishments those of a low rank, with whom they find themselves obliged to serve, will be strictly kept to their duty, and that danger or confusion in a great

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measure prevented, which armies are often thrown into by the neglect, perverseness, or cowardice of some of the common soldiers. Even the hon. gentleman himself confesses, that some general regulations, or articles of war, are necessary for the government and discipline of those armies that may be raised by our several colonies in America, because of their being so independent of one another; and this is, indeed, so evident, that it must be granted by every one at first view, because of the disorder and confusion that must arise among troops governed by several different sorts of military law. Does not the same reason hold against having the British troops in America governed by one sort of law, and the American troops by another? For they must often, if not always, serve together in all the operations of war. No one can foresee all, but every one may guess at some of the disorders that would from thence ensue. In my opinion, it would create such a distinction and such an animosity between the two sorts of troops, that they would be more likely to engage in attacking one another, than to unite in attacking the enemy; and instead of marching with diligence and alacrity to the support or relief of one another, they would grasp at every opportunity for sacrificing one another to the enemy.

I shall grant, Sir, that the military regulations, established by the particular laws of our respective colonies, are not so strict, nor the punishments so severe, as those which are to be established by the Bill now under our consideration; and I shall likewise grant, that their militia have generally behaved pretty well in all the wars they have been engaged in: they have, indeed, upon all occasions shewn undaunted courage; as Englishmen, I hope, always will; but whoever reads their histories with attention must see, that their conduct has not always been extraordinary, for they have often suffered by their negligence or want of discipline; and would have suffered much more, and much oftener, if they had had to do with regular well disciplined troops. But the enemy they had to do with was generally a body of wild Indians, sometimes supported by a few of the French militia, and against such an enemy no very exact discipline was necessary, because they could seldom observe, and much seldomer take the proper advantage of the oversights committed by our people. In the three last wars we have had against the French, they were so much pressed by us and our allies upon the continent of Europe, that they could not spare to send any of their regular troops to America, and their colonies in that part of the world were not near so populous as they are at present; but ever since the last war, they have every year been sending some of their reformed officers, and disbanded soldiers, to America; and though by our superiority at sea we may prevent their sending great fleets and armies to America, yet if a war should ensue, they will certainly send, and we cannot prevent their sending, several of their regular regiments by stealth in single ships, or three or four ships at a time, to that part of the world; and this, I say, they will certainly do, as we cannot pretend to attack them at land in Europe, without kindling up a general war, to be carried on solely, or at least chiefly at our expence.

From hence we may see, Sir, that if our present disputes with France should unfortunately end in a war, our colonies in America will be engaged in a war very different from any they were ever engaged in before. Instead of a parcel of wild Indians, or a few French militia, they will now have to do with armies of French regular and veteran troops: troops which, I am sorry to say, were in the last war too often flushed with victory, and against such troops a much more exact discipline will be necessary on our side, than ever was necessary in any war heretofore carried on by any of our colonies in America; for against a well-disciplined and well-conducted hostile army, courage without conduct will only serve to lead our troops on to their destruction, as has already in part appeared from what happened this last summer upon the confines of Virginia. Some new regulations for the troops to be raised in America, and more strict than any former, are now certainly become necessary; and those regulations I must think the best, which have been approved of by all our general officers here at home, and which by long experience have been found the most proper for preserving a due subordination in the army, and for compelling every man, both officer and soldier, to observe his orders, and to perform his duty, in the most exact and punctual manner. It would therefore in many respects be wrong in us to take up our time with contriving and passing a particular and distinct Mutiny Bill, for the

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government of such troops as may be raised in America; and as our colonies are more immediately under the eye of the crown than any other part of the British dominions, it would, in my opinion, be too great an encroachment upon the prerogatives of the crown, or at least it would be an intermeddling in an affair with which we have no call to have any concern, and which it is impossible for us to regulate in a proper manner by any general law. His majesty may give orders to his generals to shew a deference and respect to men of rank or fortune, who may list as common soldiers in our American troops, and not to put the military laws so strictly in execution against them, as against any other sort of common soldiers, especially with respect to the punctilios of discipline, and the tours of fatigue; but it is impossible to do this by a formal act of parliament, and it would be ridiculous in us to attempt it: nay, even his majesty's orders must in this respect be left very much to the discretion of the commanding officer.

Now, Sir, as to the objection against the manner in which this clause has been brought in, I am surprised to hear it said, that a clause for subjecting troops to be raised in America to the martial law, is a clause that no way relates to the very Bill annually brought in for establishing and continuing that law; or that the adding of such a clause was not to be expected when the Bill was ordered to be brought in. So far otherwise, in my opinion, Sir, that the adding of such a clause to the next Mutiny Bill was to be expected as soon as it became probable that it would be necessary to raise troops in America; and when could such a clause be so properly added as in the committee upon the Bill? Therefore if any of our colonies had thought fit to have petitioned against it, they ought to have had their petitions ready even before the instruction was moved for; but the truth is, that few of them, I believe, did think fit, and none of them ought to have thought fit, to offer any petition upon such a subject. The forming, commanding, and regulating of armies in time of war, is an affair that belongs solely to the crown; and though his majesty be so gracious as to desire to have his prerogative enforced by act of parliament, surely he does not desire, that any corporation, or body of men in his dominions, should interfere in such an affair. Suppose that upon a message from our sovereign, we had it under consideration, or should appoint a day for taking it into consideration, whether we should address his majesty to declare war against France, would it be fit for any corporation in the kingdom, or even for the city of London itself, to offer a petition either for or against such an address? Ought we to allow any petition upon such a subject to be brought up and read at our table? This shews, Sir, that petitions may often be of such a nature, or offered upon such an occasion, as not to be fit to be received, let them be never so decently expressed, and let the petitioners be of never so high a consideration, or ever so deeply concerned in the event. And as I think, that the regulating of our armies in time of war is as much, and as high a prerogative of the crown, as that of declaring war, I must think, that we ought not to receive any petitions when we have such an affair under our consideration, for which reason I must be against the bringing up of the petition now offered to us; for though I have a very high regard for the colony in whose name this petition is presented, yet I hope they will excuse my having a higher regard for the crown, and for the British dominions in general.

Mr. *William Beckford:*

Sir; whatever the hon. gentleman may think of the question now before us, I must think it one of the utmost importance, even supposing that our sovereign has, by his prerogative, a power, in time of war, to establish what articles of war he pleases for the good government of his army; for even in that case the sovereign ought not, and I am sure, his present majesty would not establish any articles of war, without the advice and consent of those who had under him the chief command of the army; and they would not surely advise or consent to such articles of war as would render it impossible for them to augment or recruit their army, or such as might probably discourage and dispirit the soldiers then under their command. Let us therefore consider, whether the gentlemen of our regular army here at home, or the gentlemen who were born, or have lived many years in America, are the best judges what sort of military laws may have this effect in that part of the world; and at the same time we ought to consider, that the troops which have been raised, or may hereafter be raised in America do, and always must consist, so far as

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relates to the common soldiers at least, of men of a very different character from those of our regular army here at home. In the latter we seldom, if ever, have any gentlemen, especially gentlemen of fortune serving as common soldiers; but on the contrary, they are generally men who had no character, or perhaps a bad one, before they listed in the army: whereas, in the former there will, I hope, be many gentlemen of some fortune, and almost all of them men of some substance and character before they listed in the army. Is it not from hence evident, that officers who have been long accustomed to that rigour of discipline and severity of punishment, which is necessary for compelling the common soldiers of our army here at home to behave well and do their duty, can never be proper judges of what sort of military laws ought to be established for enforcing good order and exact discipline among the troops raised in America?

The hon. gentleman was pleased to say, that men of honour and character can give themselves no concern about the articles of war, or military laws, let them be never so rigorous and severe, because, for the sake of their own character, they will always do their duty, and consequently can never have any thing to fear from the severity of the punishment. Sir, he may as well say, that men of honour and character must always be infallible. The weakness of human nature is such, and our passions are so strong, that a man of the best character and strictest honour may by the former be led into an error, or by the latter hurried into one of the greatest of military crimes, a crime which is punishable even with death itself, if so the court-martial shall think fit: when I say this, every gentleman must suppose I mean that sort of mutiny which is committed by offering any violence against a superior officer. And indeed there is scarcely a section in the articles of war, but what inflicts a punishment which must be thought too severe upon a man of any character: for example, the very first section appoints that a soldier, who uses any unlawful oath of execration shall not only forfeit one shilling, but be laid in irons for twelve hours upon his second offence of this kind: and there are so many trivial offences made punishable at the discretion of a court-martial, that no man of common sense will chuse to make himself subject to such laws. Nay, even our common soldiers here, cannot properly be said to have ever chosen to do so; for those who list in our regiments here at home, are generally such as will not, or cannot earn their bread by their industry, and are therefore forced to list in the army for a subsistence, or they are cajoled, and I may say, trepanned into the army by our recruiting serjeants. Whereas the troops that are to be raised in America must consist chiefly of those who generously and voluntarily list in the army, merely for the sake of serving their country; and of such only we can propose to raise a sufficient army in that part of the world.

But this is not all, Sir, a man might perhaps trust to his own sagacity, coolness of temper, and diligence, for preventing his being guilty of any of those offences which are to be so severely or so arbitrarily punished by the articles of war; but all these rare qualities joined together cannot warrant him against a false accusation; and if falsely accused, he may by false witnesses, or by the mistake or partiality of the court-martial, be condemned, and punished in the most severe manner prescribed or warranted by the articles of war; therefore let a man's honour and character be never so great, nay, let him be never so confident of his own sagacity, coolness, and diligence, the rigour and severity of the military laws to which he is to be subjected, must give him some concern; and if he thinks them too rigorous and severe he will not chuse to subject himself to them: nay, he will avoid doing so as much as he can; and this he will do with the more care, when he considers, that if he should happen to fall under the suspicion of any military offence, he may chance to be tried by a court-martial, consisting mostly of officers of what we call our regular troops, from whom he will at least suppose that he can expect no favour.

It is therefore, evident, Sir, that if the military regulations established by this Bill be thought too rigorous and severe by our people in America, the clause now under our consideration, will, if passed into a law, render it much more difficult, if not impossible, to raise any troops in that country: and they will be much more apt to think these regulations too rigorous and severe than they would be if it were left entirely to themselves, and the very same regulations established by their own chief leaders and officers. In some, and, I believe, in most of our colonies in America, it is ordained by their own laws, that in time of war, or imminent danger of being

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invaded, the martial law shall be in force, and that the commander in chief, in a general council of war, shall establish such laws and articles of war as shall be thought necessary: such laws the people always submit to without murmuring, because they know the law-makers, and have a confidence in them, that they will not consent to any law but what is necessary for the good of the service; but we cannot expect the same submission to military laws advised by persons they never knew, and adapted to the government of common soldiers, who seldom list in the army from any motive of honour or public good; and as this is well known to our people in America, they will naturally look upon themselves as affronted, if not oppressed, by any law which renders it impossible for them to concur in the defence of their country, without subjecting themselves to the same slavish regulations.

I am therefore fully convinced, Sir, that our agreeing to this clause will infallibly have this fatal consequence, that it will either prevent its being possible for us to raise any body of troops in America, or it will make the troops we raise there refuse to act upon any occasion, in conjunction with any of the British forces his majesty may think fit to send thither; and consequently I must be of opinion, that our agreeing to this clause will prevent its being possible for us to carry on the war in America with that vigour and success which we might otherwise have good reason to hope for. This, I say, Sir, is my opinion, and yet I am as fully convinced that some new regulation is necessary for the government of those troops that may be raised in America; because for carrying on the present war in America with vigour and success, all our respective colonies and plantations in that part of the world must unite in raising armies, or an army, to be commanded by such generals, or such a general in chief, as his majesty shall be pleased to appoint; and such a general army cannot be governed by, or made subject to the military laws of any particular colony or plantation; nor can the general, without a sufficient power for that purpose, establish a body of military laws to which all the troops under his command shall be subject. Whether his majesty can without the authority of parliament grant such a power may admit of some doubt; but it can admit of no doubt, that he cannot now compel any man to take arms, or to furnish either a horse or foot soldier, but by virtue of the militia acts now in force in this kingdom, or by virtue of the militia laws now in force, or that may hereafter be enacted, in our respective colonies in America; consequently, the general army I have mentioned must be an army consisting chiefly of volunteers, or such as our respective colonies may voluntarily send to it, and therefore no such military laws should be established, as may discourage volunteers from listing in that army, or our colonies from subjecting any of their people to such military laws.

For this reason, Sir, if his majesty has by his prerogative a power, in time of war, to establish what articles of war he pleases for the government of his army, even whilst it remains within the British dominions, and can delegate that power to any general he may be pleased to appoint, the articles of war for the government of the general army to be raised in America, ought not in prudence to be formed or established by the advice of any ministers or generals here; nor ought any such articles to be established, until after that army has assembled; and then the commander in chief ought to have a power delegated to him, to form and establish a body of military laws for the government of that army, by the advice and consent of their chief officers, or the majority of the chief officers sent from the several respective colonies. Or if it should be thought, that his majesty cannot by his prerogative delegate a power sufficient for this purpose, we ought to impower him to do so by a Bill regularly brought in, and deliberately passed into a law, for this particular purpose; which, in my opinion, would be the best method, both because I doubt of the power by prerogative in this case, unless upon an unexpected emergency, and before a parliament can be assembled; and because in such a Bill the quota of troops which each colony ought to furnish to the general army, and the quota of expence, might be settled; and particular encouragements might be given to all volunteers who should join that army, as well as to every colony that should furnish more than its quota.

I have said, Sir, that I doubt of the king's power by prerogative to establish articles of war, even in time of war, for the government of his army, whilst it remains within the British dominions; I think it is certain, that he cannot do so at all times whilst it remains in England; for all our

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lawyers tell us, that whilst the courts of common law are open, and the course of justice free, it shall be deemed time of peace, and that in time of peace the exercise of martial law can never take place: nay, the preamble to the very Bill now before us, expressly tells us, that no man can be subjected in time of peace to any kind of punishment within this realm by martial law, or in any other manner, than by the judgment of his peers, and according to the known and established laws of this realm. Now as I do not think that our people in America forfeited their right to any privilege they are intitled to as Englishmen, by going to settle, or by being born in that country, I do not think that they can be tried or punished by martial law within the limits of any of our colonies, if the courts of common law be open, and the course of justice free, in that colony where the army may then happen to be; and consequently I must think, that whilst our army in America remains within the limits of any of our colonies, his majesty cannot by his prerogative alone establish articles of war, or *constitute co*urts martial for the trial of any *sort of offen*ces whatever.

If this be so, Sir, what a strange condition will our American troops be in? Whilst they are in conjunction with any British forces that may be sent thither, let them be where they will, they will be subject to military laws, which they will certainly think too arbitrary and severe: whilst they are marching or acting by themselves, within the extensive limits of any of our continent colonies, they will be subject to no military laws at all, unless the legislative power of that colony has proclaimed martial law, and even in that case the martial law of that colony may be very unfit for governing such an army. For example, in Virginia, how ridiculous would it be to fine a New-England, or a Carolina man, in a hundred pounds of tobacco, or any greater or lesser quantity of tobacco, for any military offence he might be guilty of? And yet we know, that most of the military rewards and penalties in that colony are, by their military laws, made to consist in certain quantities of tobacco.

I must therefore, Sir, look upon the clause now under our consideration as calculated, surely not with design, not only to discourage, but to confound the military service in America; and I am convinced, that if you allow the petition now offered to us to be brought up, and some of the gentlemen of New-England to be heard upon the subject, they will be able to make this evident to the House, and may shew you many stronger reasons than I can think of, against your agreeing to this clause, as they must be better acquainted with the nature of the military service in North-America, than I could ever have an opportunity of being, or than any gentleman in this House can pretend to be; and as it is so early in the session, we have the less reason to refuse what information they can give us in a matter of so great importance; therefore I hope the Petition will be allowed to be brought up.

The motion for bringing up the Petition was then rejected; after which the Bill was passed.

*Debate in the Commons relating to the Oxfordshire Election.**] November 18. Some of the contested elections gave the Commons a good deal of disturbance, particularly that for the county of Oxford, where the sheriff had returned four instead of two knights of the shire, consequently no one of them could sit or take his place in the House, and that county of course was to remain without a representative in parliament until this affair was decided. On this day there were severally presented to the House a Petition of lord viscount Parker, and sir Edward Turner, bart. two of the gentlemen returned by the sheriff; and also a Petition of lord viscount Wen-

* "While the public business was going thus quietly on in the House of Commons, the controverted elections were productive of great heats and debates. The chief was that for Oxfordshire, where the sheriff returned all the four candidates, to wit, lord Parker, sir Edward Turner, lord Wenman, and sir James Dashwood, who all of them petitioned, complaining of an undue election, and the double return. The two former were chosen upon what was called the new interest, and were supported by the court, as the two latter were by what was called the old interest. The expence and animosity which this dispute occasioned, both without and within doors, was incredible. Even murder was committed upon the place of election; and the House this session, after the public business was finished, hardly proceeded to any other. The friends of the new interest, however, happening to be most powerful in the House of Commons, lord Parker and sir Edward Turner were, after long and tedious debates, voted to be the sitting members, by a majority of 233 against 103." Tindal.

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man, and sir James Dashwood, bart. the two other gentlemen returned by the sheriff: and also a Petition of the gentlemen, clergy, and other freeholders of the county of Oxford, whose names were thereunto subscribed; all complaining of an undue election and double return for the said county.

The moment these Petitions were all read, a motion was made by the friends of the two first mentioned gentlemen, whose cause had in Oxfordshire been called the New Interest, That the matters of the said Petitions, and of the said double return, should be heard at the bar of the House. But the friends of the two last mentioned gentlemen, whose cause had in Oxfordshire been called the Old Interest, being of opinion, that the merits of the return ought to be first heard and determined, they were against the question being put upon this motion, and therefore they moved for the previous question. Upon which the following debate ensued:*

Sir *Charles Mordaunt*:

Sir; when I consider of what importance it is to our constitution to have the office of sheriff faithfully executed, especially with respect to gentlemen chosen to serve their country in this august assembly: when I consider how many laws have been made, and how many precedents there are for regulating the conduct of our sheriffs in this respect; I am surprised to see such a return as has been made by the sheriff of Oxfordshire, of members to serve in this parliament. By the writ the sheriff was directed to cause two knights to be chosen and returned for that county: could he, could any man of common sense suppose, that in obedience to such a writ he was to cause four knights to be chosen and returned for that county? From the very words of the writ he could not but see that this was a misbehaviour in his office. But this is not all; for by the act of the 7th and 8th of king William, since made perpetual, it is expressly enacted, That if any officer shall wilfully, falsely, and maliciously, return more persons than are required to be chosen by the writ or precept, he shall forfeit double damages with costs of suit, to the party grieved: and by another act of the 10th and 11th of the same reign, he is to forfeit 500*l.* one moiety to the king, the other to the prosecutor, if he neglects to make a return of the writ to the clerk of the crown in chancery, before the day of the meeting of the parliament.

From these acts, Sir, and several others, we may see how careful our parliaments have been to have the king's writs for the chusing of members of parliament properly and duly returned; and in all cases where the right of election is contested, and the returning officer thinks the point in dispute of too much consequence, or too intricate, for him to determine, his conduct has been regulated by immemorial, and, I may say, constant custom; for in such cases the custom has been to make a double return by one or by two separate indentures, and in these indentures to express the cause of his making such a return: or if there be two persons pretending to be returning officers for any borough, and each makes a return to the sheriff's precept, the sheriff, if he thinks he cannot take upon him to determine which of the two is the proper returning officer, returns both to the clerk of the crown, along with the precept and writ, and so makes a double return for that borough. Of the first sort of double returns, by two separate indentures by the same returning officer, we had a famous instance in an election for knights of the shire of Hertford, soon after the Revolution, when sir C. Cæsar and Mr. Freeman stood in opposition to one another, and no less than 72 quakers came in and voted for sir C. Cæsar; but their votes were contested by Mr. Freeman as not being duly qualified, because they refused taking any oath, and the act for admitting the affirmation of quakers instead of an oath, was not then passed. The votes for these two candidates were so near equal upon the poll, that these 72 quakers, if admitted to be good votes, made a majority for sir C. Cæsar, but if they were not admitted, then Mr. Freeman had a majority; and as great indulgence then began to be shewn to dissenters of all denominations, the sheriff would not take upon him to admit or reject these quakers, therefore he executed two several indentures, one between himself and several of the freeholders who elected sir C. Cæsar (by a majority composed of the contested votes) and another between himself and some of the other freeholders who had elected Mr. Freeman (by a majority without these contested votes.) Such a double return brought the question, as to the return, regularly and fairly before the

* From the London Magazine.

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House, and it was presently determined in favour of Mr. Freeman.

Then, as to the other sort of double returns by two separate indentures, by two contending officers, we have many instances, especially in those boroughs where there are two bailiffs, and both are to join in making a return to the sheriff's precept; for they often divide, and each makes a return by himself, in conjunction with such of the voters as were for his candidate. But I doubt much if we have an example of a double return by one indenture, except at an election for Dunwich, in January 1688-9, when four members for that borough were returned instead of two; but the reason for doing so, was expressed in the return itself, which was, that the two gentlemen first named in the return were chosen by a majority of the burgesses resident within the borough, who pretended to have the only right, and the other two gentlemen were chosen by a less number of the burgesses resident, and a majority of the freemen non-resident; so that by this return the question in dispute was fairly laid before the House. And I must also except an election of a member for Portsmouth, in the year 1695, when the mayor of that town, by one and the same indenture, returned two gentlemen instead of one, but then his reason for doing so was expressed in the indenture; for he therein declared, that one of the gentlemen was chosen by the mayor, aldermen, and a majority of the burgesses; and that the other was chosen by part of the burgesses, and a majority of the inhabitants. From hence it appeared, that the question was, whether the right of election was in the mayor, aldermen and burgesses only, or in the mayor, aldermen, burgesses and inhabitants; and that the reason why the mayor made a double return was, because he would not take upon him to determine this question. Even in this case it would certainly have been more regular in the mayor to have returned two indentures, as the return to the sheriff's precept is always by way of indenture between the sheriff of one part, and the returning officer of the borough with a majority, or at least an equal number of the electors of the other; but as the reason for making a double return appeared upon the face of this indenture also, the House accepted of it as a double return, because the question in dispute was thereby fairly laid before them, and might be speedily determined, which it was accordingly, for the return came to the clerk of the crown on the 30th of December only, and the question was determined by the committee before the 21st of January following.

It is therefore evident, Sir, that this return for Oxfordshire cannot properly be called a double return. On the contrary, it is certainly a false return, and a most illegal one, as it is expressly against the act of parliament I have mentioned; for it is impossible to suppose that a majority of the electors of Oxfordshire, where there are so many men of learning, and men who are thoroughly acquainted with the laws and constitution of their country: I say, it is impossible to suppose, that in such a county a majority of the freeholders should choose four representatives, when by law, as well as by the very words of the writ, they could choose but two; and if the freeholders had been so equally divided, that exactly one half of them had voted for two gentlemen to be their representatives, and the other half for two other gentlemen, the sheriff, in such a case, should have returned two separate indentures, in each of which he should have mentioned, that the two gentlemen therein said to be chosen, were chosen by such a number of freeholders, being exactly one half of the freeholders who voted at that election. This would have been a proper double return, and might have been a true one; but a return which upon the very face of it appears to be a false one, cannot surely be called a double return; and as it is so flatly against, and in defiance of a penal law, I cannot think that the sheriff would have ventured to have made it, without some security for his indemnification, which ought to be most strictly and most speedily enquired into; for the granting or promising any such security, would be one of the highest crimes a man could be guilty of, and a crime of the most dangerous consequence to the liberties of this country.

This most extraordinary and most manifestly false return for Oxfordshire is therefore, Sir, an affair of much greater consequence than most gentlemen may at first view imagine. It is an affair in which the freeholders of that single county are far from being the only persons concerned: the whole people of England are nearly concerned; for if our sheriffs should be encouraged to make false returns of members of parliament, by promises of protection from the powerful, or by cove-

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nants to save them harmless from the rich, we may bid adieu to our constitution and liberties. We know how easy it is for the crown to have upon any occasion a majority in the other House, and consequently we cannot but see that a majority sent into this House by false returns from the sheriffs, picked out and appointed for that purpose, may by one single act make an irrecoverable surrender of all our liberties and privileges: it is but passing such another act as was passed in the arbitrary reign of Henry 8, by which it was enacted, That the king's proclamation should be of equal authority with, and have the same force and effect in all cases, as an act of parliament: happy was it for this nation, that the long and arbitrary reign of that king was followed by a minority, and that minority governed at first by a regent who had a true regard for the liberties of his country; by this happy concurrence of favourable circumstances, we got that act repealed, and our old constitution restored; but if the next successor had been of age, we cannot suppose that he would ever have parted with a law which so effectually vested him with absolute power; and in one reign more the people would have been so accustomed to this new sort of government, that it could never have been possible to have got the old restored. The successor might perhaps have done as his predecessor had done: he might now and then have called a parliament for form's sake; but the parliament being sensible that the king, if he pleased, could govern without them, they would always have been ready to have given to his pleasure the form of an act of parliament; and then he might truly have said, that both his predecessor and he had always made the laws of the land the rule of their government; for though I have called the reign of Henry 8 arbitrary, I must observe, that in almost every thing he did he acted by the authority of an act of parliament; and, indeed, he had never any occasion to act otherwise, because the parliament was always ready to give him any sort of law he pleased to desire, and to alter not only our form of government, but even our religion, according to his direction, which was often not only whimsical but contradictory.

For these reasons, Sir, I think the affair relating to this return of so much consequence, that it deserves the immediate and the most serious attention of parliament; therefore I hope the hon. gentlemen will wave the motion they have made, that the matters of the said Petitions, and of the said double return, be heard at the bar of this House, in order to make way for a motion I think the only proper one that can be made upon this occasion, which is, That the return of knights to serve in parliament for the shire of Oxford be taken into consideration on this day sen'night, (or some shorter day if the House thinks fit) and that the high sheriff for that county, together with his under sheriff, be ordered to attend the House on that day. If the hon. gentlemen shall please to wave the motion they have made, I shall rise up again and make you this motion, or these motions, for, I believe, it will be most proper to move what I have mentioned by two or three separate motions; but if they refuse to wave the motion they have made, I must then, and shall rise up again to move for the previous question; for I cannot agree to call that a double return, which, in my opinion, appears upon the very face of it to be a false, wilful, scandalous and malicious return.

Mr. *Robert Nugent:*

Sir; how some gentlemen can be under such terrible apprehensions about our liberties during his present majesty's reign, I cannot comprehend; for I am sure, no one can say, that from the beginning of it to this very day, any thing has been so much as attempted against our liberties, or any law proposed that could be thought to have a dangerous tendency with respect to our constitution. The liberties and privileges of this House were never in any reign more uniformly preserved, and the liberty of the people without doors has been so much indulged, that I am afraid, we have, like an over-fond mother, spoilt our favourite child, for it really begins to deviate into a sort of licentiousness. A reasonable jealousy of our liberties is at all times necessary, and highly commendable; but an unreasonable jealousy, like unreasonable fear, is more likely to expose us to danger, than to prevent it; and we all know, that it is not much above a century ago, that an extravagant jealousy of our liberties brought us at last under the very worst sort of absolute power, and overturned our constitution both in church and state. This, I am persuaded, the hon. gentleman who spoke last cannot but recollect, as, I believe he constantly attends his duty at

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church upon the two holidays appointed to be observed upon account of the misfortune we then brought upon ourselves, and our providential if not miraculous, escape from it; therefore, I hope, he will never indulge any ill-grounded fear of our liberties being in danger; and I must think, there was never any fear worse grounded than that which is pretended at present; for what connection our liberties can have with the sheriff's return for Oxfordshire, or with the present disputed election in that county, I cannot so much as suggest.

The state of that dispute, Sir, is, or may be sufficiently known without the immediate attendance of the high sheriff, or any other person from Oxfordshire. We all know, Sir, that the dispute is, which two of four gentlemen were legally and fairly chosen to represent that county in parliament. They are all four allowed to be equally well qualified, equally capable, and, I hope, equally friends to the constitution of their country. How, then, can our liberties or constitution have any such concern in this dispute, as to induce us to proceed in an extraordinary manner? On the contrary, Sir, as we are the only proper judges, if our constitution can have any concern in the question, it is in our proceeding coolly, deliberately, and regularly, to enquire into it; and for this purpose the motion that has been made is the only proper one we can agree to. The return that has been made by the sheriff is, I shall admit, a little extraordinary, but this proceeded not from malice, or from any unjust or unfair design, but from an extraordinary circumstance in this election which never happened in any other; and this circumstance, I believe, is known to every gentleman in the House. However, to refresh the memory of gentlemen, if the House will give me leave, I shall state it as clearly and as briefly as I can. The writs for summoning this parliament having been issued the 9th of April last, and made returnable the 31st of May, the sheriff of Oxfordshire, on the 17th of April, held his county court for the election at Oxford, being the usual place, and as soon as it was possible after receiving the writ. At this election the lord Wenman and sir James Dashwood appeared as joint candidates on one side, and lord Parker and sir Edward Turner as joint candidates on the other; and as they were all gentlemen of great interest in the county, and the freeholders very numerous, it was impossible to determine the election upon the view, therefore a poll was demanded by the candidates, and presently granted by the sheriff, as he had before provided every thing proper for carrying it on. This poll he carried on with the utmost impartiality until the 23d, when the numbers were cast up, and he declared them to be for lord Wenman 2033, sir J. Dashwood 2014, lord Parker 1919, and sir E. Turner 1890; but neither upon the poll could he declare the election, as a scrutiny was demanded by both sides, and as queries had been put to a great number of voters at the time of their voting. As a little recess was necessary before beginning the scrutiny, he adjourned the court to the 8th of May, and appointed that day for beginning the scrutiny. Accordingly it was begun on the 9th of May and carried on with the utmost diligence till the 30th; but objections were made by lord Parker and sir E. Turner against such a number of the voters for lord Wenman and sir J. Dashwood, that before the latter could answer those objections, or make any against the voters for lord Parker and sir E. Turner, the sheriff was forced to put an end to the scrutiny, because he was by law obliged to make a return of his writ the next day to the clerk of the crown, under the penalty of 500*l*.

What could the sheriff do, Sir, in such a case as this? He could not in honour or conscience return lord Wenman and sir J. Dashwood; for though they had the majority upon the poll, yet objections had been made against so many of their voters, and not answered by them, as would have thrown the majority upon the other side; as little could he in honour or conscience return lord Parker and sir E. Turner, because the other side had not had an opportunity to answer the objections made to their voters, or to make any objections to the voters for their antagonists. Therefore the only fair thing the sheriff could do was, I think, what he has done, that is to say, to return all the four candidates, and to leave it to this House to determine which two of these four candidates had the majority of legal voters.

From this account, Sir, which, according to the best information I could procure, is a fair and true account; what pretence can we have for putting the sheriff, or under sheriff, to the trouble and expence of a journey to London? For, I believe, no high or under sheriff was ever ordered to attend upon any day before the

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election in question was brought regularly before the House; and this we cannot surely pretend to do in a few days, or in a week's time. Even then it is not usual to order them to attend, unless some of the candidates can say, that they shall have occasion for examining them at the hearing, or something very criminal be alleged against them. Therefore our agreeing to any such motion as the hon. gentleman has been pleased to mention, would look as if this House had declared itself of a party; and that we were resolved to punish the high sheriff for not returning the two gentlemen of that side which we had resolved to espouse. This surely would be inconsistent with the dignity of this House, and derogatory to that character which we ought to be careful to preserve amongst the people without doors, because upon that the liberties of the people chiefly depend; for if an opinion should once generally prevail, that this assembly was always governed by faction and party, and that we were ready upon all occasions to sacrifice both justice and the public good, when either of them stood in opposition to the prevailing faction or party amongst us, it would be easy for those who are enemies to popular assemblies, as ministers always will be, to propagate an opinion, that the government would be better administered, and the public good, as well as public justice, more uniformly and more faithfully pursued, without a House of Commons than with one. What might be expected, Sir, from the prevalence of such an opinion? Certainly, a resolution in our ministers to advise their sovereign to get our form of government altered, and the whole power of parliament lodged in the king and House of Lords; and this alteration might be easily brought about, should this House ever fall into a general contempt amongst the people. After such an alteration the liberties of Great Britain might perhaps be talked of, as the liberties of Poland are now, but it would not be the liberties of the people of Great-Britain, but the liberties of the princes thereof in a licentious exercise of despotic rule over their respective slaves.

From hence, Sir, I think it is evident, that if we shew a due regard to the liberties of our country, or to our own character, we must agree to the motion that has been made, for hearing at the bar the matters of the said petitions, and of the said double return; for when the return cannot be determined before determining the merits, it has always been the practice of this House, to hear both together; of which I could give many instances, but need refer only to those mentioned by the hon. gentleman himself, because in every one of them the merits and return were heard and determined together; and nothing, I think, can be more plain, than that, in the case now before us, the return cannot be determined until the merits are enquired into; for both returns are by the proper returning officer, and those two candidates who appeared to have a majority of legal votes in their favour, we are to presume, would have been returned by him, had he had time to go through with the scrutiny, which was expressly demanded, and not objected to by the two other candidates who had the majority upon the poll; but as he had not time sufficient to go through with the scrutiny, he could not declare which two of the four candidates had a majority of legal votes, nor can we, until we have made that scrutiny which he had not time to make; and consequently till then, that is to say, until we have examined into the merits of the election, we cannot determine which two of the four candidates ought to have been returned.

Suppose, Sir, that no scrutiny had been demanded of either side, which might have been the case, as it was apparent that there would not be time sufficient for going through with it; and suppose that the sheriff, being doubtful of the right of many of those who stood upon the poll, had made a double return, which he might have done without any misdemeanor in his office, considering the great number of voters, and the small majority in proportion that appeared upon the poll; yet even in that case we could not have determined the return before enquiring into the merits: but as a scrutiny was demanded on one side, and not objected to on the other, nay, I am told, previously agreed to, if not first proposed by the other, it rendered the poll of no effect, and consequently we have still less foundation for any judgment with respect to the return, until we have examined into the merits.

For these reasons, Sir, I hope the hon. gentleman will not wave the motion he has made: nay, as it has been seconded, he cannot wave it without leave of the House, which I shall be against granting; therefore the question must otherwise be put upon that motion; and if the hon. gentleman who spoke last has a mind to try the previous question he may; but I hope a

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great majority of the House will join with me in an affirmative to both.

Mr. *Randle Wilbraham:*

Sir; as to the account of the late election for Oxfordshire, which the hon. gentleman has been pleased to give us, I shall admit, that so far as he thought fit to mention, it was pretty just, except, however, as to the impartiality of the sheriff; for that has been expressly denied, and is known to be otherwise, I believe, by the whole county; therefore I must suppose, that the hon. gentleman had his account only from those who favoured one side of the question, at that election, more than the other. For this reason, I hope, the House will give me leave to add some things to his account, and to make some remarks upon such of the facts as he has been pleased to mention; from whence I hope to shew, that every argument he was pleased to advance against, is a strong argument in favour of the motion proposed by my hon. friend, and of its being the only motion we can now with propriety or decency agree to. With regard to the partiality of the sheriff I shall in general observe, that in all elections, where there is an opposition, it is the duty of the sheriff to avoid, as much as possible, the shewing, either by his words or actions, that he favours one side more than the other, because he is by his office the judge of all disputes that shall happen during the election between the contending parties; and because by his office he must always have great weight in the county, which is the chief reason why he is not by our constitution eligible, either for the county or for any place within the county; for should he appear as a candidate, or in favour of either of the contending candidates, it would, by means of the high office he bears under the crown, prevent the freedom of election; and as the annual appointment of sheriffs is now solely established in the crown, we ought to be the more particularly careful to see this part of our constitution duly observed; for the greatest danger to which our liberties can be exposed, is that of the crown's having too great an influence in the choice of the members of this House; because, should this ever happen, and the danger increases every day, the king of Great Britain, without transgressing any of the forms of our constitution, would be as absolute, as we have recorded in history of any of the emperors of Rome.

Now, Sir, that the high sheriff of Oxfordshire, at the last election, openly and avowedly declared himself, both by his words and actions, a supporter and patron of one of the contending parties, I have the fullest assurance not only by the testimony of many gentlemen of one side, but the confession of many gentlemen of the other. Of this I could mention many more instances which, I believe, will be all fully proved when you come to enquire into it; but I shall mention only a few that are notoriously known to be true; and the first is the case of many copyholders, I think about 116, who voted for what the sheriff called his party; many of them, if not all, declared that what they voted for was a copyhold, yet the sheriff, or his clerk by his express orders, not only admitted, but advised them to take the oath appointed by law, that is to say, to swear, that they were freeholders in Oxfordshire, and had freehold lands or hereditaments at a place named in that county, of the yearly value of 40*s.* above all charges payable out of the same. Nay, some of the poor men were more scrupulous than the high sheriff, for they would not take the oath, unless they were allowed to add, that they took it as a free copyholder; and with this qualification they were not only admitted to swear, but their names entered upon the poll. This, Sir, was something more than partiality in the sheriff: it was next degree to what we call subornation of perjury, and a breach of his duty as a magistrate; for no magistrate ought to allow a man to take an oath, when it appears by his own previous confession, that if he takes it he will be perjured.

So much, Sir, with regard to the taking of the poll, and then with regard to the scrutiny, the sheriff acted with a most glaring partiality; for though there was the highest probability that he would not have time to go through with the scrutiny, yet he refused to carry it on by allowing each side to object to one vote alternately, and to determine that before he proceeded to another; or to carry it on by hundreds or parishes, and to have one hundred or parish scrutinized by both sides before proceeding to another, which would certainly have been the most expeditious method, and the most convenient for both sides, if both intended to act fairly; because they might have begun with the nearest hundred or parishes first, and would not have been obliged to have a great many witnesses in town at a time, or

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to keep any of them many days in town. But both these proposals he rejected, and determined that his own party, as he called it, meaning that of lord Parker and sir Edw. Turner, should make all their objections through the whole poll first; and his reason for chusing this method I shall by and by explain.

I shall now beg leave, Sir, to add to the account the hon. gentleman was pleased to give, a fact or two which I have very good reason to believe to be true. The first is, that the sheriff, after declaring the numbers upon the poll, added these words, or words to the like effect, therefore I must declare the majority upon the poll to be for the said lord Wenman and sir J. Dashwood; and the second is, that upon their objecting to the method in which he proposed to carry on the scrutiny, because of the shortness of the time, he declared his desire to be, that expedition should be used on both sides; for if the scrutiny should not be finished on both sides before the return of the writ, such a scrutiny must be fruitless. But his abiding by the method he had chosen, shewed, that he did not desire expedition, and the return he has since made, shews the scrutiny not to be fruitless.

Lastly, Sir, as to the facts mentioned by the hon. gentleman who spoke last, I must observe, that the 116 copyholders I have mentioned, are all included in the numbers upon the poll, for lord Parker and sir Edward Turner, so that if these be deducted, the numbers will be but 1803 for the former, and 1774 for the latter; and I cannot suppose that this House will ever vote copyholders to be freeholders, nay, I doubt if we have a power to do so; for though we may by a vote determine any dispute in law relating to elections, we cannot by a vote alter or amend the law; when we think any alteration or amendment necessary, we must proceed to it by Bill, and that Bill must have the concurrence of the other House, and the assent of our sovereign, before it can take effect. The only other remark I shall make, Sir, is with regard to the time appointed by the sheriff for beginning the scrutiny. If we consider the number of voters that were queried by the sheriff upon the poll, and the shortness of the time before the writ was to be returned, we cannot but wonder what should induce the sheriff to put off beginning the scrutiny for above a fortnight. But when we consider the return he has made, and the method he so obstinately insisted on for carrying on the scrutiny, our wonder will cease, because we cannot but suspect, that he adjourned the scrutiny so long, and chose that method for carrying it on, on purpose that his favourite candidates might have time to go through all their objections to the voters against them, in order thereby to give themselves a seeming majority; and that the other side should not have time to justify so many of their voters thus objected to, as might have thrown the majority again on their side. This the sheriff was perhaps afraid of, because he could not then have had a pretence for making a double return; and he knew, that if he had rejected the vote of any voter whose name was upon the poll, after the objection against him had been removed, every such voter would have had an action, and would have recovered damages against him, which might have amounted to more than any security he had, which he could trust to, for his indemnification.

It is said, Sir, that some recess was necessary after concluding the poll: I should be glad to know the reason why any recess was necessary; for I cannot suggest to myself any reason why the scrutiny might not have been begun next day, and as the time was so pressing, nothing but the most urgent necessity ought to have prevailed. If the scrutiny had been begun next day, or in a day or two after concluding the poll, and if it had been carried on with expedition in the method proposed by the candidates who had the majority upon the poll, that is to say, by parishes or hundreds, and finishing it for one parish or hundred before proceeding to another, I am persuaded, that the whole might have been gone through before the return of the writ, and a great deal of expence to the candidates, and trouble to this House prevented, which they and we are now like to be exposed to. But the sheriff had two reasons for not proceeding upon the scrutiny in this method; for if he had, he must have given judgment, with respect to the right of each contested voter in every parish or hundred he had gone through; and if on one side he had rejected voters who had a good right, he would have exposed himself to actions at law; or if on the other he had approved and admitted voters who had been made appear to have no right, his partiality and injustice would have become manifestly flagrant. His own safety was therefore

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one reason for his not chusing to carry on the scrutiny in this method; and the other was a resolution he seems to have taken, that since he could not return his favourite candidates upon the poll, he would make what his friends call a double return, but is really upon the face of it a false return.

I am sorry to say, it is something worse than false, Sir, if he took the oath appointed by law to be taken by every returning officer, immediately after reading the writ or precept for the election. The words of that oath are, "That I will return such person or persons as shall, to the best of my judgment, appear to me to have the majority of legal votes." I therefore hope, Sir, he did not take this oath: nay, I must presume, that he neglected to take it; for when there were but four candidates, and but two of them to be chosen, it is impossible he could judge that every one of the four had the majority of legal votes. Therefore his not having had time to finish the scrutiny, can be no excuse for his making such a return; and indeed since that law was made, and that oath appointed, it is hardly possible we can have a double return by the same returning officer, except in boroughs where the general right of voting has not been established by a determination of this House, and where one candidate is chosen by a majority of one sort of voters, and another candidate by a majority of another sort of voters; or in counties or places where the right of some particular voters is upon some general head contested, and by those voters the majority thrown upon that side where it would not otherwise be; in either of which cases the double return ought to be by two separate indentures, and in each indenture the cause of, or reason for returning the candidate therein named, particularly set forth. In the first of these two cases the double return from Portsmouth that has been mentioned, will always be a precedent fit to be followed; and in the second the double return from the county of Hertford, that has likewise been mentioned, will always be the same.

Thus, Sir, in the case now before us, if the free copyholders, as they were instructed to call themselves, had thrown the majority upon the side of lord Parker and sir E. Turner, which without them would have been on the side of lord Wenman and sir J. Dashwood, it would have been excusable in the sheriff to have admitted them to vote in the manner they did, and to have made a double return by two seperate indentures, in the same manner as was done for the county of Hertford; but as this was not the case, as lord Wenman and sir J. Dashwood had a great majority upon the poll, even allowing the votes of these copyholders to be included for the other side, the sheriff had no title nor pretence to make a double return in any manner whatsoever: his not having time to finish the scrutiny could give him no such pretence in law, and much less by the oath, if he took it; for since the scrutiny was not finished, he had no way of judging but from the poll; and as he was not only bound but compellable to make a return, he certainly ought to have made it according to the best judgment he could form from that which was the only method he had to judge by.

This I say, Sir, was what he ought to have done, and this doctrine will, I hope, be established by the resolutions of this House upon this occasion, which we can do no other way but by resolving to take this return, such as it is, into our consideration by itself alone, and determining that whoever had the majority upon the poll shall be the sitting members, until the merits of the election be determined, in case the other candidates should think fit to contest the same, which they may do by petition. This we have often done, nay, it is the usual practice in all cases of a double return, where the return itself does not apparently depend upon the merits, and from our Journals it will appear, that upon some double returns, the candidate who has by this House been declared duly returned, and consequently the sitting member, has afterwards upon the merits been declared not duly elected. I shall mention only one instance, which was that of the Devizes, in Wiltshire, in the year 1690. The mayor of that borough, to whom the sheriff's precept was directed, had without the common seal, and without any burgesses joining with him, returned sir T. Fowles and Walter Grubb, esq.; and several of the burgesses, without the mayor, had returned John Methwin and Walter Grubb, esqrs. whereupon the sheriff returned both indentures. What did the House do upon this occasion? They presently referred the returns to the committee, and in five days time the committee reported their resolution to the House, that sir T. Fowles and Walter Grubb, esq. were duly returned; which resolution, though upon the face of

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the return, the mayor appeared to have acted a little arbitrarily, was agreed to by the House, the other indenture of return taken off the file, and the two gentlemen returned by the mayor took their places. As that session was near a close, Mr. Methwin had not time to petition upon the merits of the election; but this he did the beginning of the next session, and thereupon sir Thomas Fowles was voted not duly elected, John Methwin, esq. was voted duly elected, and the mayor's return being amended, he took his seat accordingly.

From hence we must see, Sir, how necessary it has always been thought to determine a double return as soon as possible; for this, as I have said, was determined in five days; that of Portsmouth in less than three weeks, though it was necessary to examine a multitude of ancient records; and that of Hertford in a very short time after the Petitions were presented. The reason for this dispatch is very plain; for it has always been thought of the most dangerous consequence to suffer any place entitled to it, to be without a representative in this House. In former times, when public spirited zeal for serving our country in parliament was not so warm, or at least not so general amongst the gentlemen of this kingdom, as it is in this happy age of disinterested and true patriotism, if any sheriff neglected to return members for any place bound to send representatives to parliament, the gentlemen elected, or the places bound to elect, did not always think themselves obliged to complain of such neglect by petition; but nevertheless any member of the House might, and often did, take notice of it. In the reign of queen Elizabeth, Mr. Serjeant Harris, a great lawyer of those days, stood up and said, That in respect great danger and inconvenience might grow by the want of any one particular member of this House, I think good to certify to the House the want of a knight for Rutlandshire; and Mr. Wiseman, another great lawyer, at the same time declared, That it was necessary for the House to have all its members, because otherwise the body was but maimed. In short, as often as the House has been informed of any such want, either by petition, or by any of its own members, it has always taken care to supply immediately the defect, by ordering the sheriff to make a return to the writ, or by ordering a warrant for a new writ. But should we give any countenance to the sheriff's making any sort of double return, merely on account of his not having had time to finish the scrutiny, this House may meet in a new parliament, without so much as one member in it from any county or place in the kingdom, where there are a great number of voters, and which refuses to chuse such representatives as the minister for the time being shall direct. For this purpose nothing more would be necessary but to corrupt the returning officers, and set up an opposition in every such county or place; for it would be easy for every such officer to protract the scrutiny, so as not to be able to finish it before being obliged to return his writ, and then to make a double return of the four candidates. Would not such a House of Commons be indeed a maimed body? Sir, it would not only be so at its first meeting; but it would certainly take care to continue so during the whole time of its existence; for upon every double return it would resolve, as is now proposed, to hear the merits and the return together; and it would take care not to go through with the merits of any one election during the first session, which it might easily do, by carrying on the hearing of half a dozen of them together. What would the consequence be, Sir, at the beginning of the next session it would be contended, that they could not go on from where they left off in the former session, but must begin afresh with every hearing; and thus we might have a seven year's parliament, without so much as one sitting member in it, except from our most venal boroughs.

Is it possible, Sir, that any gentleman who considers this, can think of not resolving to enquire into this false return by itself alone, and with the utmost dispatch? And if this be resolved on, I am sure I have laid a sufficient foundation for our ordering, at least the high sheriff, to attend upon the day that shall be appointed for enquiring into the return. In truth, we cannot well proceed to such an enquiry without having him present; because it is from him, regularly, that we ought to have an information as to the numbers on the poll, as to the method of making the scrutiny, and as to his reasons for not completing it; and even though the most flagrant partiality should be proved against him, we could not proceed to punish him, unless he should have an opportunity, by being present, to justify himself. That an order has been made for the sheriff's at-

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tending, as soon as, or soon after the Petition complaining of his conduct was ordered to be heard, we have so many instances, and it is in itself so necessary from the reason of things, that I am surprized to hear any doubt pretended about the propriety of such an order. In the case of the double return for the town of Northampton, in 1678, the high sheriff was not only ordered to attend at the hearing, but was ordered into custody, for accepting of a return from improper persons, and refusing that from the mayor to whom he had directed his precept: in the case of an election for the county of Norfolk in the same year, both the high sheriff and under sheriff were, upon reading the Petition, ordered to attend at the hearing; and the latter was upon the hearing ordered into custody: And within our own memory, in the case of the election for the county of Denbigh, in the year 1741-2, the high sheriff was not only ordered to attend at the hearing, but was committed to Newgate: surely, this House neither would nor could have inflicted such a punishment, unless the high sheriff had by his presence had an opportunity to be heard in his own defence.

I shall therefore conclude, Sir, with observing, that if we should resolve to hear the merits of this election before determining the return, which must be the consequence of our agreeing to the motion now before us; and if we should reject any motion that may be made for the high sheriff's attending at the hearing; whatever we may think within doors, an opinion will generally prevail without, that a majority of this House have declared themselves of a party, and that no justice is to be expected by that party which has the misfortune to be in disgrace with such a majority here. What fatal consequences may ensue from such an opinion prevailing among the people without doors, I need not be at the pains to delineate, as they have already been painted in such lively colours by the hon. gentleman himself who spoke last. Therefore, when he considers the subject a little more maturely, I hope, that from his own arguments he will be induced to join with me in putting off the motion now before us by means of the previous question; for though I am for determining the return before the merits, I am far from being against enquiring into the merits: on the contrary, I hope, the gentlemen candidates, whoever they may be, against whom the return is determined, will give us an opportunity to enquire into the merits, by directly lodging their petition against the election; and this I the more earnestly wish for, because I have good reason to believe, that many indirect practices were made use of with regard to the election as well as with regard to the return.

Mr. *Welbore Ellis*:

Sir; whatever danger there may be in allowing any part of the kingdom to be without its representative in this House, there is certainly much greater in allowing any gentleman a seat in this House, as the representative of a place for which he was not duly elected; and therefore in all cases of a double return, where it does not evidently appear upon the face of the return, which of the gentlemen ought to have been returned, the constant rule ought, I think, to be, to appoint the merits of the return and election to be heard together; and though I do not pretend to be much acquainted with our Journals, yet I believe I may say, that from them it will appear, that this has been the rule which has been most generally observed; for in the case of the Devizes mentioned by the hon. gentleman who spoke last, it appeared evidently upon the face of the return, that sir T. Fowles was the person who ought to have been returned by the sheriff, as he was the person returned by the mayor of the borough, who was the proper returning officer, and the only one to whom the sheriff's precept was directed; and as to the case of Portsmouth, as well as that of the county of Hertford, it appears, that the merits of the election and return were both determined together; the first being declared a void election, and in the other the resolutions or determinations of the House were, 1st, "That Quakers having a freehold, and refusing to take the oath when tendered by the sheriff, are incapable of giving their votes for knight of the shire for that reason: and 2dly, That Ralph Freeman, esq. is duly returned and elected a knight of the shire to serve in this present parliament for the said county of Hertford."

Every one of these cases therefore, Sir, is in favour of the rule which I say ought to be observed in all cases of a double return; and the rule is in itself so agreeable to reason, that I am surprised to hear it disputed. Indeed, a case may happen wherein it would be impossible for the returning officer to avoid making a double

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return, or for this House to determine the return before determining the merits of the election: the case I mean is, when two contending candidates happen to have an equal number of votes; which is a case that not only may, but has actually happened. In 1690, at an election for the great and populous city of York, the two contending candidates had upon the poll 841 votes each; and as neither side demanded a scrutiny, which shewed their wisdom, as such a scrutiny would have signified nothing towards determining the election, could the returning officer do any thing but what he did, which was to make a double return upon the poll? Could the House in this case proceed to hear the merits of the return before hearing the merits of the election?

Several other sorts of cases might be stated, Sir, wherein it would be impossible for the sheriff to avoid making a double return, or for this House to proceed to the hearing the merits of the return before hearing the merits of the election; and the case now before us is, I think, plainly of this sort; for the sheriff is by his oath obliged to make his return according to the best of his judgment, yet neither the law nor his oath obliges him to form, much less to pass a judgment; and indeed such a law or such an oath would be ridiculous; for no man can form a judgment until he has all the proper and necessary lights before him: if he does, he certainly judges rashly, and if he acts in pursuance of such a judgment, he runs a great risk of doing injustice. In all such cases therefore the law permits, and justice requires, that the sheriff should make a double return. This, Sir, is the very case now before us: the sheriff could not form any judgment upon the poll, because a scrutiny was demanded: nay, it was not only demanded but previously agreed on by both parties: he could not form any judgment upon the scrutiny, because he was by law obliged, and under a very great penalty too, to return his writ before the scrutiny was half finished: nay, so far as he had gone in the scrutiny, it furnished him with a new and a very strong reason for not daring to form any judgment upon the poll; because he from thence found some reason to doubt, whether the two candidates who appeared to have the majority upon the poll, would upon the scrutiny appear to have the majority of legal votes. What then could he do in such a case, Sir? He was obliged by law to make a return: he was by his oath obliged to make a return according to the best of his judgment; but he had not before him those lights that were absolutely necessary for forming any judgment: In such a case, Sir, I will say, that it would have been a breach of his oath to have returned any two of the four candidates, and therefore he had no other course to take, consistently with law and with his oath, as well as with impartial justice, but to return all the four, by way of a double return.

As to the form or manner of making the double return now under consideration, it is, in my opinion, a matter of no consequence. Perhaps it might have been more formal to have made it by two separate indentures, and in each indenture to have expressed the reason for returning the two knights therein named; but as neither law nor custom has established any particular form for making double returns, the sheriff cannot, on this account, be accused of any neglect or misbehaviour in his office; and consequently we cannot, on this account, have a justifiable reason for putting him to the trouble and expence of attending this House. And as to his having acted in a partial manner at the election, or during the poll, we cannot so much as pretend to judge of it, until we enter into the hearing of the merits of the election. If any such partial behaviour should then come out in proof, it will be time enough then to order him to attend to justify himself; for it is, I think, an established rule in the laws of this country, and ought to be in the laws of every country, that no person is to be put upon his justification until there be an accusation against him upon oath.

Therefore, Sir, with regard to the behaviour of the sheriff at the election, or during the poll, we can as yet have no reason for ordering him to attend; for as to his admitting those who call themselves free copyholders, he had no authority for refusing to administer to them the oath appointed to be taken by freeholders; and if they took that oath in the terms prescribed by act of parliament, whatever mental reservations or interpretations they might have, he could not refuse to admit them upon the poll. Nay, if I am rightly informed, it is the practice in some counties in England, to admit copyholders by inheritance, as they are called, to vote at elections, and farther that some such copyholders have upon former occasions been

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admitted to vote at elections for Oxfordshire; so that the sheriff's allowing or giving orders to allow, such copyholders to take the oath appointed by law, was so far from being any thing like subornation of perjury, that it was what he was by his office obliged to do, and what they would have had just reason to complain of, had he refused to do.

Then, Sir, with regard to his putting off the scrutiny for so many days after the poll was ended, this is, so far as I have heard, the first time it was ever complained of or objected to. As the poll had continued for six or seven days from morning till night, it is highly probable that the candidates and their inspectors on both sides, as well as the sheriff and his clerks, were heartily fatigued with so long and so close an attendance, and that therefore all parties desired a pretty long respite. Besides, it is to be supposed, that both sides desired to have sufficient time to enquire into the circumstances of the numerous voters whose votes had been queried upon the poll, and to find out the proper witnesses for proving the objections they respectively intended to make; and a fortnight was, in my opinion, the shortest time that could be thought of for such a purpose. And as to the method of carrying on the scrutiny, if we can judge by the practice of this House, that which the sheriff chose was the most expeditious and the most convenient for all parties; for it is the method in which this House has always proceeded to enquire into the merits of any election, where the question was, which side had the majority of legal votes. But suppose that a better method might have been chosen, an error in judgment can never be imputed to the sheriff as a misdemeanor, especially as he had the constant practice of this House by way of precedent for justifying his method of proceeding.

There is therefore nothing as yet appears, Sir, that can furnish any tolerable reason for our ordering the sheriff to attend, nor can such an order be founded upon any one of the precedents that have been mentioned. In the case of Northampton, in the year 1678, the misbehaviour of the sheriff evidently appeared upon the face of the return: in that of Norfolk in the beginning of the next year, the illegal practices of the under sheriff were not only complained of, but notoriously known; and in that of the county of Denbigh, in 1741-2, the illegal practices of the high sheriff of that county were likewise notoriously known. But as to all the three cases I must observe, that they happened at a time of great heat and violence, and when party spirit had perhaps too great an influence even upon the resolutions of this House; for from history we may learn, that by that session of parliament which ordered the high sheriff of Northamptonshire into custody, the then Lord High Treasurer was impeached, and almost a total change produced in the administration; and most of us, I believe, remember, that by that session of parliament which sent the high sheriff of Denbighshire to Newgate, a secret committee was appointed to enquire into the conduct of the then first lord commissioner of the Treasury, and almost a total change produced in the administration; and as to that session which ordered the under sheriff of Norfolk into custody, all our histories inform us of the violent contests all over the kingdom at the elections for that new parliament, and many of our historians complain of the too violent proceedings of that parliament after it was met. Therefore we ought to be cautious in following any precedent made at any of those times, especially when there seems to be reason to suspect, that the precedent proceeded rather from the spirit of party, than from that mild and impartial spirit which ought always to prevail in this assembly.

Now, Sir, as there appears nothing upon the face of the return that can give us a pretence for ordering the high sheriff to attend, so there appears nothing upon the face of the return that can enable us to determine which two of the four gentlemen ought to have been returned. On the contrary, from the known circumstances of the election it appears to be impossible for us to determine which two of the four gentlemen ought to have been returned, until after we have enquired into the merits of the election, by making that scrutiny into the number of legal votes for each candidate, which the sheriff had begun, but had not time to finish. For as the votes of so great a number of voters were queried upon the poll: as so great a number of those who voted for the two candidates who had the majority upon the poll, were objected to by the other side, and very few of those objections removed during the scrutiny before the sheriff, surely you would not determine that the two candidates who had the majority upon the poll ought to

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have been returned by the sheriff, and to be the sitting members, until such time as the merits of the election shall be enquired into and determined. This way, I say, you could not surely determine, because we should thereby run a very great risk of having two representatives in this House for Oxfordshire, who were not legally chosen for that county, which is certainly of more dangerous consequence to our constitution than our having no representatives at all for that county, as a man who has a right to sit, speak, and vote in this House, may do more harm to our constitution, than a man who has no right either to speak or vote. For this reason, Sir, our constitution will always be in more danger from false and illegal returns made by our sheriffs than from double returns; because in the first case the members returned, however illegally chosen or returned, have a right to sit, speak, and vote in this assembly, until removed upon hearing the merits: whereas, in the latter case none of the members returned have any such right; consequently in the former case a great number of members so returned may support the elections, or pretended elections of one another, which in the latter case it is impossible for them to do.

Thus, Sir, in whatever light we can view the affair now before us, the motion that has been made will appear to be the only proper motion; and therefore I hope the question will not be put upon it, but unanimously agreed to. When it is agreed to the next question will of course be, I suppose, for hearing the matters of the said petitions, and of the said double return, at the bar of this House, which I shall most readily agree to: and the next after that, will of course be, for appointing a day for hearing this affair, which I hope will be as short a day as can be proposed; and when you have entered into the merits, if a proof should be made by any credible witness, that the sheriff has been guilty of any misbehaviour, I shall be for ordering him to attend; but until an accusation be laid against him upon oath, I think it would be injustice in us to put him to the trouble and expence of such a long journey at such a season of the year.

Mr. *George Fox Lane*:

Sir; I am surprised that no gentleman has before now taken notice of the irregularity of this debate; for you have hitherto been debating and founding all your arguments upon facts, of which you neither have, nor can at present have any parliamentary knowledge. Who has told us, Sir, that two of the candidates for Oxfordshire had a majority upon the poll, that the other two demanded a scrutiny, that the sheriff began this scrutiny but had not time to finish it, and that this was his reason for returning four knights of that shire when he should have returned but two? Surely, we are not in a parliamentary way to take our information as to these material facts from the petitions, or from any gentleman's standing up in his place and telling us so: we can have no parliamentary information as to these facts, but from the high sheriff himself; and if he had made a proper double return, all these facts should have been therein set forth, in which case we should have had no occasion for his attendance. But the return he has made is not a double return: it is upon the face of it not only a false return, but contrary to the express words of an act of parliament, as he thereby returns more members than were required to be chosen by the writ; and if he cannot give a good reason for so doing, it is to be presumed, that he did it wilfully, falsely and maliciously, which reason is not surely to be given for him by any gentleman in this House, but must be given for himself in person, because by cross questioning a discovery may be made, that the pretended reason was not the true reason for his making such a return, but that he made it wilfully, falsely and maliciously on purpose to injure some of the candidates.

It is not therefore, Sir, the behaviour of the sheriff at the time of the election or return, but it is the return itself that makes his attendance necessary; for the return is of so new and so extraordinary a nature, that we cannot regularly proceed to examine the merits either of the return or of the election, until we have the return explained to us, and we cannot in a parliamentary way receive that explanation from any one but from the sheriff himself. Whatever trouble and expence he may be put to upon that account he is to impute to his own conduct alone; because if he had made a proper return either single or double, he would have prevented his being put to any trouble or expence upon that account. Suppose he had returned a dozen, or a score of knights for that shire, instead of two, without giving us any reason for his so doing, would you have proceeded to

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hear the merits of such a return, or such an election, without first examining the sheriff how he came to make such an illegal return? Sir, the necessity for our having this return explained to us, together with the sheriff's reasons for making it, is so evident, that I am surprized to hear such a motion made as we have now before us. Gentlemen say, that the merits of the return depend upon the merits of the election: they can have no foundation for saying so, without taking these facts for granted, 1st, that there was such a small majority upon the poll, that by a scrutiny it might probably have been thrown upon the other side: 2dly, that a scrutiny was properly demanded: 3rdly, that a scrutiny was granted: and, 4thly, that the sheriff had not time to finish it. Is there any one of these facts set forth in the return? How, then, can we have a parliamentary knowledge of any of these facts, but from the sheriff himself? Yet, without a parliamentary knowledge of every one of these facts, no gentleman, as a member of this House, can say, that the merits of the return depend upon the merits of election; and without saying this no reason can be assigned, why we may not proceed directly to the hearing and determining the merits of the return.

Thus, I think, Sir, it is evident to a demonstration, that we can regularly do nothing in the affair now under consideration, until we have had this extraordinary return explained to us, and have heard from the sheriff's own mouth his reasons for making such an extraordinary return. By this means we shall have a proper parliamentary knowledge of all the facts I have mentioned, and then, and not till then, we may be able to determine whether the merits of the return depend so absolutely upon the merits of the election, that the one cannot be determined before the other.

But now, Sir, give me leave to anticipate this question a little, for which purpose I shall join with the gentlemen of the other side in taking all the facts I have stated for granted; for even upon this supposition it will, in my opinion, appear, that the merits of the return not only may, but ought to be determined before the merits of the election. Let me, then, suppose, that of two contending candidates one has upon the poll a small majority above the other, that no scrutiny is demanded, and yet nevertheless the returning officer returns them both by way of a double return; will any one say, that in such a case the return ought not to be first determined in favour of the candidate who had the majority upon the poll, and the returning officer punished for a misbehaviour in his office? Let me next suppose, Sir, that a poll was demanded, but refused to be granted by this returning officer, on account of its not being properly and legally demanded, and that nevertheless he returns both the candidates by way of a double return; can it be said, that in such a case the return ought not to be first determined in favour of the candidate who had the majority upon the poll, and the officer punished for a breach of his duty? In both cases the reason is the same, because when a scrutiny is not granted as well as demanded, the return ought to be made upon the poll; and if the return ought to be made upon the poll, surely the merits of the return can have nothing to do with the merits of the election, either in this House or any where else, because if the officer had done his duty, the candidate who had the majority upon the poll would have been the sitting member, and it would be injustice in us to keep him from that seat which he had a right to by the laws of his country, on pretence of first hearing the merits of the election. Now, I must insist upon it, that a scrutiny not finished is a scrutiny not granted, consequently in every such case the candidate who had the majority upon the poll ought to be returned, and if he ought to have been returned, can the merits of the return have any thing to do with the merits of the election?

A scrutiny, Sir, like a poll, is one entire thing; both may be continued, but neither can be divided; and both are of such a nature, that if not completed they can signify nothing, that is to say, they become nothing. If the sheriff should at the end of the first day shut up the books, declare the majority, and make his return accordingly, when a tenth part of the freeholders had not polled, would any one say he had granted a poll? As little can it be said that he had granted a scrutiny, when he put an end to it before completing it; and in all cases when he refuses to grant a scrutiny he is bound by the nature of his office to make his return upon the poll. In reality, a scrutiny by the sheriff can, as the laws now stand, be of very little signification; for I do not see how he can reject any one that has been admitted to poll. In taking the poll, each of the can-

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didates may have his inspectors to attend the poll; and the law has plainly and expressly prescribed who shall be admitted to poll: that is, every one that offers and will take the oaths or affirmations prescribed by law, if required by either of the candidates. If a man be admitted to poll without requiring him to take the oaths, his vote cannot upon the scrutiny be rejected on account of his not taking the oaths, and much less, I think, on account of his not having a right to a vote; for he neither is, nor can be obliged by the sheriff to attend the scrutiny; and no man's right ought to be enquired into, much less taken away from him in his absence, unless his absence be owing to his contumacy. And if before polling he has taken the oaths, surely his vote cannot be rejected by the sheriff upon the scrutiny: nay, I doubt if it could then be rejected by this House; for we have upon our Journals two resolutions, that evidence ought not to be admitted to disqualify an elector as no freeholder, who at the election swore himself to be a freeholder: Both of which were in the session 1695-6, one upon a contested election for Hertfordshire, and the other upon a contested election for the county of Surry. These resolutions, Sir, ought to have the more weight with us now, as they were agreed to by a House of Commons, consisting chiefly of those that called themselves Whigs; and by that very session wherein the act was passed which prescribed a new form of an oath to be taken by the freeholders at an election, and put it in the power of any of the candidates to require their taking it; and which prescribed a proper punishment to be inflicted upon any person taking this oath falsely, and upon the person who shall suborn him so to do; for it is thereby declared, that both shall incur the pains and penalties of the act of the 5th of queen Elizabeth against perjury; which clause is repeated and inforced in the act of the 10th of queen Anne, and I wish I could say, that it has been further enforced by several prosecutions and convictions since that time; for the old observation holds true in this case as well as many others, that we have very good laws, but no care taken to see them executed.

Thus, Sir, it is evident, that a scrutiny by the sheriff, even when granted and completed, can now be of very little signification, but when not granted, or not completed, which is the same, it is certain that it can have no signification, and consequently the sheriff, by the duty of his office, is obliged to make his return in favour of that candidate, or those candidates who had the majority upon the poll, in the taking of which the law has now left very little, if any thing, to his judgment, for he is now obliged to admit every one who demands it, and who, if required, submits purely and simply to take the oath prescribed by law; and if any one, when required, refuses to take that oath, or pretends to add any explanations, the sheriff is not to admit him upon the poll; for the sheriff has not surely a power to add to, or to alter the form of an oath prescribed by act of parliament. Therefore, if he does admit any one upon the poll, who refuses to take that oath purely and simply, or who openly declares that he takes it with explanations or mental reservations, the sheriff is thereby guilty of a breach of his duty; and if upon that account, or on pretence of his having admitted upon the poll such as had no right to a vote, he should make a double return, it would be a second breach of his duty, for which he ought to be punished by this House; for to pretend that the sheriff is not obliged to form or pass any judgment, but may make a double return whenever he pleases, is absolutely inconsistent with our constitution: on the contrary, if he makes a double return without any plausible pretence for so doing, he may and ought to be punished by this House; and, in my opinion, it would, as being a false return, fall within the meaning of the act before-mentioned of the 7th and 8th of king William, so that he might be prosecuted, or would be liable to an action upon that statute. But I do not wonder to hear such a doctrine advanced by those who tell us, that the proceedings of this House in the years 1678 and 1679, and in the session 1741-2, are precedents of a dangerous nature, and such as ought not to be followed but with great caution. At all those times, Sir, the true spirit of our constitution exerted itself with its proper vigour, and whenever it does, this House will narrowly watch the conduct of our sheriffs, and exert every inch of its power in punishing such of them as shall make themselves tools for serving the wicked purposes of ministers; for our sheriffs, we know, are all appointed annually by our ministers, who too often pick out and appoint such men to be sheriffs, as they think will follow their most arbitrary directions. Therefore the proceedings of this House

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in those years, will always be precedents fit to be followed, and will be followed as often as we have a due regard to our constitution, or to our own dignity and independency. And I must observe, that according to one of these precedents, to wit, that of Norfolk, the high sheriff was ordered to attend at the very time the Petition was presented, and though there was no complaint in the Petition against his conduct; yet now, it seems, we must not put a high sheriff to the trouble and expence of attending, though his conduct be complained of, and though upon the very face of the return his conduct appears to be a little suspicious.

This extraordinary tenderness, Sir, which is shewn by some gentlemen upon the present occasion for the high sheriff of Oxfordshire, will certainly be interpreted without doors in a sense which, I hope, is not the true one. Without doors it will certainly be from thence supposed, that the present high sheriff of Oxfordshire made himself the tool of our ministers for procuring right or wrong the election of some favourite of theirs for that county, or for preventing the election of some one they did not like; which was the case of the high sheriff of Northamptonshire in 1678; for he had made himself the tool of our then ministers for preventing, right or wrong, the election of Mr. Montague, who, they knew, was to become the informer against the then lord high treasurer, or rather against the king himself, as being the pensioner of the court of France; for though it was well enough known, that his becoming informer did not proceed from a love of justice, or a regard for his country, (which are seldom, if ever, the true motives of any man becoming an informer) but from resentment, because he had been, very unwisely, after being trusted with such a secret, refused the post of secretary of state; I say, though this was well enough known, yet the House did right in supporting him, and in punishing the high sheriff who had entered into such an illegal and dangerous combination with our then ministers.

I hope, Sir, there is no such combination now on foot; but this will without doors be the sense put upon the tenderness now contended for, with respect to the present high sheriff of Oxfordshire; and this if we have a due regard to the character of this august assembly, will, in my opinion, be a prevailing argument for our ordering him to attend in order to explain to us this unintelligible return; for unintelligible it certainly is, as he has not thought fit to give us any one reason for his returning four instead of two members for that county; and if his reason was what his friends here pretend, that is to say, if it was because he had not time to finish the scrutiny, which is the very same as if no scrutiny had been demanded or granted, I must insist upon it, that in duty he ought to have returned the two candidates who had the majority upon the poll. If this was his duty, then surely, Sir, it is our duty to hear and determine the merits of the return before entering into the merits of the election; and we ought at least to reprimand him for a breach of duty, in order to establish it as a maxim, that in all cases where a scrutiny has not been completely gone through, the returning officer ought to return the candidate or candidates who had the majority upon the poll; because it is evident, that to leave it in the power of returning officers, in such cases, to make such a return as we have now before us, may be attended with the most dangerous consequences to our constitution; and this danger will be very much increased, if the other maxim now contended for should be established; that in such cases this House may put off hearing the merits of the return, until after hearing the merits of the election; for as has been already suggested, we may by such maxims have a seven years parliament without so much as one member in this House, from any county or populous city in the kingdom, except from such as slavishly submitted to chuse candidates recommended by an ambitious prime minister of state.

Besides, Sir, I have shewn, that a scrutiny by the sheriff, can signify very little; and in truth it can signify nothing, unless it be to shew the candidate who had the minority upon the poll, whether he has any good ground to petition upon the merits of the election; for the sheriff has really no power to reject the vote of any one man he has admitted upon the poll, therefore the poll is the only time when the sheriff is to enquire into any man's right of voting, and the law has provided the method by which alone he is to enquire, that is by examining the person upon oath as to the freehold for which he claims a right to vote at that election. This, Sir, is the utmost the sheriff's power extends to: he can neither then refuse, nor afterwards upon a scrutiny reject the vote of any man who takes the oath pre-

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scribed by law; and if there be just ground to suspect, that any such voter has sworn falsely, he may upon the spot be bound over to the quarter sessions by any justice of the peace then present, to answer for the perjury he is accused or justly suspected of; or, I believe, he may be bound over to the sheriff himself to answer in his court for perjury; for I must observe that the act of the 5th of Elizabeth against perjury makes the crime cognizable by the judges of the court where it is committed, and by the justices of assize, gaol delivery, and of the peace.

I hope, Sir, I have now made it evident, that we cannot proceed regularly to the hearing the merits, either of the return or of the election for Oxfordshire, without first examining the sheriff as to his reasons for making such an extraordinary return; and that if his reasons be such as are pretended even by the gentlemen who are advocates for the motion now before us, we ought to proceed first to the hearing the merits of the return, in order to do that justice to the two candidates who had the majority upon the poll at that election, which they are intitled to by the laws of their country, and which has been, I will not as yet say maliciously, but I will now say, wilfully and injuriously denied them by the high sheriff of that county. Therefore, from the hon. gentlemen's own shewing, their motion must appear to be improper, and consequently, I hope, they will join with me in giving their negative upon the previous question.

Then the previous question being put was carried, on a division, by 267 against 97. After which the matters of the said Petitions and of the said double return were ordered to be heard at the bar of the House on the 3rd of December.

Dec. 3. The House proceeded to the hearing of the matters of the said Petitions and of the said double Return; and the counsel being called in, the Petitions were read, after which were read the standing order of the 16th of January, 1735, for restraining the counsel at the bar of the House, or before the committee of privileges and elections, from offering evidence touching the legality of votes for members to serve in parliament for any county, shire, city, borough, cinque-port, or place, contrary to the last determination in the House of Commons: as also the standing order of the 18th of March, 1727, That in all cases on double returns, where the same shall be controverted, either at the bar of the House, or in committees of privileges and elections, the counsel for such person, who shall be first named in such double return, or whose return shall be immediately annexed to the writ, or precept, shall proceed in the first place. Upon this the return being looked into, it from thence appeared, that lord Wenman was first named therein, and his counsel having declared that they were also counsel for sir James Dashwood, and for the gentlemen, clergy, and other freeholders of Oxfordshire, whose case was the same with that of lord Wenman, they were directed to proceed. Accordingly, they began with opening the general nature of their case, after which the return was read, and the poll-books produced, from whence they alleged, that lord Wenman and sir J. Dashwood had the majority of votes upon the poll, which being admitted by the counsel on the other side, they then proved by several witnesses, that after closing the poll, the sheriff did declare the majority of votes to be in favour of these two gentlemen, and that he then adjourned the court from the 23d of April to the 8th of May, so that the scrutiny, demanded and granted on the behalf of lord Parker and sir Edward Turner, did not begin till May the 9th, when a dispute arose about the method of carrying it on; for it was proposed by lord Wenman and sir J. Dashwood, that the sheriff should carry it on by allowing each respective side to object to one vote alternately, and to examine and determine every vote thus objected to, before proceeding to another; or otherwise, that he should carry it on either by hundreds or by parishes, and that one hundred, or one parish, should be fully scrutinized by both sides before proceeding to another. On the other hand, the sheriff proposed to allow lord Parker and sir E. Turner to make all their objections through the whole poll against the voters for their antagonists, who should then be allowed to answer these objections, and then to make their objections through the whole poll against the voters for lord Parker and sir E. Turner, which objections lord Parker and sir E. Turner should in the last place have leave to answer; which method was objected to by lord Wenman and sir J. Dashwood, because it might induce the other side to make such a number of frivolous objections, that they could not have time to answer one half of them, much less to make any objections of their own,

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as the writ was returnable the 31st of that month: nevertheless the sheriff insisted upon his own method, but declared, that if the scrutiny should not be finished on both sides, before the return of the writ, it would be fruitless.

They further proved, that as lord Wenman and sir J. Dashwood had foretold, the objections made to their voters were so numerous, that though most of them appeared to be frivolous, even by the witnesses brought to prove them, yet they took up the time of the court until the 27th of May inclusive; so that they did not begin to answer any of these objections until the 28th, and on the 30th, before they had answered the objections to any more than between fifty and sixty of their voters, the sheriff put an end to the scrutiny, and made the return which was then before the House.

After having brought this proof, the counsel insisted, that as they had established a majority upon the poll, and shewn that this majority neither was, nor could be overthrown by such an unfinished scrutiny, it was incumbent upon the counsel on the other side to proceed upon the merits of the election, by endeavouring to overthrow that majority which they were in possession of, and consequently the objections to the qualifications of the voters ought to begin on the other side.

Upon this the counsel on both sides being directed to withdraw, a long debate ensued upon the question, Whether the counsel for lord Wenman, &c. should be directed to proceed now upon the whole of the merits of the said election on their part; which question was at last carried in the affirmative by 262 to 117. And the counsel on both sides being called in, and acquainted with this resolution, the counsel for lord Wenman, &c. proceeded accordingly, and proposed to disqualify 540 of the voters for lord Parker and sir E. Turner; but it being then late, the further hearing of this affair was adjourned till the 5th, when the lists of the persons objected to on both sides were delivered in by the respective counsel, and the counsel for lord Wenman, &c. examined several witnesses for proving the partiality of the sheriff in favour of lord Parker and sir E. Turner; and for proving that the said lord Parker and sir E. Turner, and their agents, had been guilty of bribery; for which purpose they likewise produced a letter, which they proved to be the hand-writing of the said two gentlemen. Then, upon their acquainting the House that they had finished their general evidence, and that they proposed to proceed next to disqualify particular voters, the further hearing of this affair was adjourned to the 10th, when they began to disqualify particular voters, which they continued doing on the 12th, 17th, 19th, January 9th, 11th, 14th, 16th, 20th, and 21st; on the last of which days they finished and summed up their evidence.

1755.

January 23. The counsel for lord Parker and sir E. Turner began to answer the objections that had been made to the partiality of the sheriff, to their having been guilty of bribery, with which they also charged the other side, and to their several particular voters, which they continued to do on the 28th, and on February the 1st, 4th, 6th, 8th, 11th, and 13th, on the last of which days they produced evidence to prove that customary freeholds, or customary holdings, had voted at elections in the counties of Glamorgan, Monmouth, Gloucester, Wilts, and Hereford; and that the customary tenants of the manor of Woodstock, in Oxfordshire, had been reputed to have a right to vote, and had voted at elections for that county. February 15, they continued to answer the objections to their particular voters, as they did on the 18th and 22d, when they finished their answer, and began to produce evidence to prove their objections to 522 of the persons who had voted for lord Wenman and sir J. Dashwood, which they continued to do on the 25th, 27th, March 1st, 6th, 8th, 11th, 13th, 15th, 18th, 20th, and 22d, when they finished their objections, and summed up their evidence; and April 7th, the counsel for lord Wenman, &c. began to answer the objections that had been made to their conduct at the election, to reply to what had been offered in relation to the customary freeholders in Wiltshire, and to answer the objections to their particular voters, which they continued to do on the 8th, 9th, 12th, 14th, 15th, 16th, 18th, and 19th, when they finished their reply; and the further hearing of this affair was adjourned to the 23d.

During the course of these proceedings many particular questions were debated, most, if not all of which were determined, by a great majority, in favour of lord Parker and sir E. Turner, and on the said 23d of April, after the counsel for these two gentlemen had been heard, in answer

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to the evidence which the counsel on the other side had produced in their reply, a Motion was made by the friends of the Old Interest, "That all copyholders, holding their estates by copy of court roll, not having the words, 'ad voluntatem domini,' or, 'at the will of the lord,' inserted in the copies by which such estates are holden, have a right to vote at elections for knights of the shire to serve in parliament for that part of Great-Britain called England, within the intent and meaning of the laws confining the said right of election to estates of freehold only."

This motion, which was made on purpose to have a negative put upon it, occasioned the following Debate:

Sir *Francis Dashwood:*

Sir; it is an old and a true observation, that it is more convenient for a society, and more safe for the people belonging to it, to have bad laws, provided they are clear and certain, than to have no laws at all, or to have any material point left to be decided by the magistrate or judge, according to his particular humour at that time, or more probably according to his own particular interest or affection. Before the late election for the county of Oxford, I always supposed it to be an established point in the law of this kingdom, that none but freeholders, that is to say, such as held the lands they possessed by deed or by feoffment, and not by copy of court roll, could vote for knights of the shire; but as the sheriff of Oxfordshire, at the late election, admitted many copyholders to vote at that election, as they made so free with the crime formerly called perjury, as to take the oath appointed by law to be taken by freeholders, and as this House has not thought fit to inflict any censure, either upon the sheriff for admitting them to take that oath, after they had declared themselves to be only copyholders, or upon them for taking what I should otherwise have judged to be a false oath: I say, considering all these things, it is, in my opinion, become doubtful, whether copyholders, or at least one sort of them, have not a right to vote at every election of knights to represent the shire within which their copyhold estates are situated, provided those estates be of the yearly value of 40*s.* above all charges payable out of the same, and not made or granted to them fraudulently, on purpose to qualify them to give their vote at that election; and provided the estates have been assessed, and they have been in possession, as is now by law regulated with regard to freehold estates.

Now, Sir, as this is a point of the utmost importance, I think it ought to be determined as soon as possible: every one knows what a number of copyholders we have in almost every county of England, whose estates are of the value of 40*s.* a year or more; and consequently, every man must see, that if this point be left doubtful, as it has been rendered by our conduct in relation to this election for Oxfordshire, it must introduce the utmost confusion in every future county election: nay, it will certainly put it in the power of the sheriff, in most cases, to return which of the contending candidates he pleases; for if the majority of the voting copyholders be for his favourites, he will admit every one of their votes upon the scrutiny as well as the poll, and if the majority of them be against his favourite candidates, he will refuse to admit any of them upon the poll, or reject every one of them upon the scrutiny. And, as the copyholders are so numerous in most counties, it is highly probable, that in most cases the admitting or rejecting them will cast the election upon which side the sheriff pleases. What effect this may have upon the independency of this House, and consequently upon our constitution, every gentleman must see, who considers, that in all the counties of England, I think, except two, the high-sheriffs are annually appointed, I may say arbitrarily, by the prime minister for the time being: such a minister will always know, or at least may foresee, when a new parliament is to be chosen, and will take care to appoint such a high-sheriff in every county as will follow his directions; for that such a man may be found in every county in England, there is not, I believe, the least doubt; and when there is so much power lodged in the hands of the sheriff, can we expect that any independent gentleman will put himself to the expence of standing candidate against the court interest for any county in the kingdom?

From experience we know, Sir, that the court has already an absolute command over too many of our boroughs, and if you add to this such a commanding influence as the court must have in every county by leaving this question undecided, you will render it ridiculous for any gentleman to put himself to the expence of stand-

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ing a candidate at any election against the court interest, if he has no motive but that of serving his country in parliament: nay, you will render it ridiculous for any man, or for any party of men, to think of pushing themselves into the administration by opposing the court, or the measures of the ministers for the time being, either at elections or in parliament; and the certain consequence of this will be, that all honest and true patriots will retire from public business, and ambitious or indigent men will think of nothing but of pushing their interest, by the most slavish submission and sycophancy, to him who happens to be the prime vizier, or to her who happens to be the most favourite sultana at the time. The election of members of parliament will then become exactly similar to the election of our bishops at present: the writ will be a sort of congé d'elire, and it will always be attended with the king's, or rather the minister's letter, commanding the electors to chuse the gentleman therein named; so that in a little time it will be criminal for any man to set up to be chosen, or for the electors to chuse any but those recommended in the letter sent along with the writ.

It is commonly said, Sir, that there is no great evil but what is attended with some advantage, and I shall grant, that even this, which will be a total overthrow of our constitution, and an utter subversion of our liberties, will be attended with one advantage; for it will put an end to bribery and corruption at elections. The venal part of our people will then find it impossible to obtain money, entertainments, or any other valuable consideration for their votes at elections: on the contrary, every election of members of parliament will be carried on with as much quietness, and at as little expence, as the elections of our bishops are at present; and when I have hidden myself at my seat in the country, if I should be left in possession of it, I must confess, that the disappointments and the murmurings of such people, will give me a sort of melancholy satisfaction. But if ever this misfortune should fall upon us, our having the shadow of a parliament will be a great addition to it; for from the history of the Romans I am convinced, that an arbitrary government, with the shadow of a parliament or senate, may be more oppressive, and more regardless of the complaints and sufferings of the people, than ever a sole and absolute monarch dare venture to be. For confirmation of this, I shall only recommend gentlemen to compare the government of some of the Cæsars, and some of the other emperors of Rome, with the government of some of the most tyrannical of the sultans of Turkey, and they will find, that the former was more oppressive upon the people in general, and more whimsically cruel, than ever the latter was; and the reason is very plain; for an arbitrary government, supported by the shadow of a parliament or senate, perpetrate all their cruelties, under the pretence and colour of law, which by means of their *delatores*, and their corrupt judges, they direct which way soever they please, and against whomsoever they please, by which method the people are imposed on so much, that they will submit to more oppressions, and bear with greater cruelties from such a government, than they ever will do from a sole and absolute monarch. Nor let any gentleman vainly imagine, that come what will, we shall be guarded against such oppressions and cruelties by means of our method of trial by jury; for if the spirit of liberty should once be totally extinguished in this nation, it will of course be succeeded here, as it has been in all other nations, by a slavish spirit of submission and sycophancy, the consequence of which will be, that our juries will as blindly follow the directions of our judges, as our parliament will those of our ministers.

Therefore, Sir, if we have a mind to prevent our being brought into the same unhappy situation to which the Romans were reduced under their emperors, we must take care to preserve the independency of this House, which can never be done, if we allow the ministers of the crown to have a commanding influence in our county elections, and this they will have, if we leave it in the power of the sheriff to reject or admit copyholders to vote at elections as he pleases. As this may be prevented, Sir, by a vote of this House, I shall therefore take the liberty to move for its being resolved, "That all copyholders, holding their estates by copy of court roll, not having the words 'ad voluntatem domini,' or 'at the will of the lord,' inserted in the copies by which such estates are holden, have a right to vote at elections for knights of the shire to serve in parliament for that part of Great Britain, called England, within the intent and meaning of the laws confining the said right of election to estates of freehold only."

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By putting the question upon this motion, Sir, you will determine that point of law which has been rendered doubtful by the uncensured conduct of the high sheriff of Oxfordshire at the late election; for if the question should be carried in the affirmative, no sheriff dare hereafter refuse to admit any such copyholder to vote at any election; and if it should be carried in the negative, which I hope it will, no sheriff dare hereafter admit a copyholder of any kind to vote at any election. I say, Sir, I hope the question, upon the motion I have made, will be carried in the negative; for as I am fully convinced, that no copyholder whatever has a right, by the law as it now stands, to vote at any county election, I have made this motion on purpose to have a negative put upon it, because I thought it the easiest and the most unexceptionable method of having the point of law determined, as we in this House are certainly the only proper judges of the right of voting at every election in the kingdom, and the more clear and certain we make this right, the less trouble we shall hereafter have, the more we shall secure our own independency, and the more independent we are, the more we may serve, the more respect we shall have from our country.

I must indeed say, Sir, that before the late election for Oxfordshire, I never so much as once dreamt, that we should ever have had occasion to determine such a question. The distinction between freeholders and copyholders is so clearly, and has been so uniformly set forth in our laws both ancient and modern, and the election of the knights of the shire has been so expressly confined by some late laws to freeholders only, that I never imagined, that any copyholder, as such, would presume to call himself a freeholder, or to claim a right to vote at any such election. I do not pretend, Sir, to be deeply read in our law books, but I have been at some pains to search, and so far as I can find, I do not believe that any of the learned gentlemen of the long robe can shew us the term, 'customary freeholder,' in any of our laws, or in any of our law books: it is a term which all past ages seem to have left to be invented by the ingenuity of those who supported what was called the New Interest at the last election for Oxfordshire, and if they succeed in their design, they will not only enrich our politics with a new party, and our law language with a new term; but also our constitution with a new regulation, which, in my opinion, will overturn every former; for if you once admit such copyholders as are described in my motion, to vote at county elections, in a few years there will not be a copyholder in the kingdom but what will be a voter at all county elections.

When I say this, Sir, it may perhaps surprise some gentlemen who are not well acquainted with the nature of our copyhold tenures, for which reason I must observe, that the words 'ad voluntatem domini,' or, 'at the will of the lord,' do not make the least difference in the nature of the tenure: if they are inserted in the copy, the tenant has nevertheless a fixt property in his estate, and cannot be turned out by the lord as long as he performs the services, and does not forfeit; and if these words are not inserted, the tenant has no greater property, nor is he thereby freed from any of the services, or better secured against forfeiture. It is now, therefore, absolutely indifferent both to the lord and tenant, whether these words be inserted or no. But if you grant a right to vote at county elections to such copyholders as have not these words inserted in their copy, every tenant will be for having them left out, in order to entitle himself to a vote, and every lord will be for leaving them out in all copies hereafter to be granted by him, because it will add to his influence at all future elections; and where a copyhold cottage is not worth 40s. a year, the lord will grant two, three, or more of them to one person, in order to multiply, as much as he can, the voters that are living within his estate, and consequently under his direction or influence at all future county elections.

Thus, Sir, we may see what an alteration we shall introduce with respect to our constitution, if we admit any sort of copyholders to vote at county elections: what may be the consequences of this alteration it is not possible to foresee; but one of them must, I think, be obvious to every gentleman's consideration, which is, that it will very much increase the influence of our nobility at all future elections; for as they are possessed, and from the nature of things must always be possessed, of most of our great manors, and as every such manor has a great number of copyholders belonging to it, if you admit them to vote at county elections, you will, in my opinion, put it in the power of the other House, by uniting together, to determine who shall be the members of this,

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and by giving the power, you will certainly, as soon as they become sensible of it, produce the union, so that in a little time our present wise and happy form of government will be converted into an absolute aristocracy; for even the crown itself must submit to be directed by those who get the lead in the other House, and consequently to concur, by some future regulations, in riveting its own chains, as well as those of the Commons.

I hope, Sir, I have now made every gentleman perceive the necessity of putting the question upon the motion I have made, and also the necessity of putting a negative upon that question; for if you leave it still in doubt, whether copyholders have a right to vote at county elections, you will put it into the power of the sheriff, and consequently of the crown, or rather the ministers of the crown, to determine at most county elections, which of the contending candidates shall be the representatives for that county, which will be a wide step towards introducing that form of government by which the Roman people were so much oppressed, and so cruelly used under their emperors; and if the question should be agreed to, you will thereby throw such a weight of influence into the other House, as will destroy that balance which the wisdom of our ancestors has established, and thereby render our nobility as tyrannical, and our Commons as wretched slaves as they are now in Poland. I know, Sir, that the putting of any question upon the motion I have made, may be prevented by what we call the previous question; but as this would still leave it doubtful, whether copyholders have a right to vote at elections, I cannot think that any gentleman, who has a regard for the liberties of his country, will attempt it, and therefore I have no occasion to offer any new argument against it.

Mr. *Penyston Powney:*

Sir; this is a question of great importance, and in order to understand it aright we must look far back into our constitution. I shall beg leave to take it up as high as king John's Magna Charta, who having promised to summon the archbishops and bishops, abbots, earls, and greater barons, goes on and says, "et præterea faciemus summoneri, in generali per vice comites et ballivos nostros, omnes illos qui in capite de nobis tenent ad certum diem scil: ad terminum quadraginta dierum ad minus," &c. That the greater barons were lords of parliament called by the king's writ, is well known; and the best authorities tell us, that the "tenentes in capite" were the lesser barons who chose knights of the shire out of their own degree: and we see the general summons is directed to be in 40 days: and why? Because once in 40 days there is always a county court held, and there were the elections made of coroners, verderers, and knights of shires, "per communitates comitatus," and lord Coke says, the commons are in legal understanding taken for the frank tenants or freeholders.

Now, Sir, could any person holding by copy of court roll appear at this court? Was he amenable there? Could the sheriff summon him? No: for the legal definition of a barony is, that it is a certain royal lordship where the king's writ runneth not; and there was the copyholder's allegiance due, for he could not serve two masters. But it is said, copyholders have voted in several counties: so they may, but they have never had a sanction here, or in any other court: the tares will get among the wheat, but we sift and separate them as well as we can. I shall not dispute, whether one sort of copyholder has not a better tenure than another; for the point is merely as to the right of voting, and lord Coke says, that "tenants which hold according to the custom of the manor, albeit they have an estate of inheritance according to the custom of the manor, yet because they have no freehold according to the course of common law, they are called tenants by base tenure."

Had the ancient surveys of the manors in question been produced, they would have cleared up this matter; I have seen some of them, where the 'liberi tenentes' are plainly distinguished from the 'tenentes customari;' among the latter there are some who hold at the will of the lord, others according to the custom of the manor, and some at the will of the lord according to the custom of the manor; there are likewise 'tenentes dominicales per copiam,' by which I understand tenants in ancient demesne, who hold by copy; whereas the 'liberi tenentes clamant tenere libere per chartam,' and not *per copiam*, by deed, and not by copy; and those only I conceive have a right of voting.

The next argument I would use is, that the electors only paid the wages of the knights of the shire. Coke says, the writ 'De expensis militum' commands the

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sheriff to levy the wages 'de communitate comitatus;' and in Prynne's Survey of Parliamentary Writs, there are writs, "de expensis militum non levandis ab hominibus in antiquo dominico, neque ab nativis," which I think must include customary freeholders and copyholders of all kinds. I can easily suppose, that the tenant, by copy in ancient demesne, had a better holding than the bondsman, and at the same time believe Mr. Prynne who says, the electors only contributed to the wages, and that all holding by copy were exempt. Speaking of the proctors in convocation, he says, it is just they should receive their wages from the clergy electing them, as well as knights of shire from their electors. Mr. Dalton, in his Office of Sheriff, says, that the electors of knights of shires must be such as do contribute to the wages, or such as are suitors to the county court, and this we must conclude was usage and law till the 8th of Henry the 6th, c. 7. when the statute requires the voters to have 40*s.* a year, which is equal to 20*l.* now: but that statute being not rightly understood, and perhaps giving an inlet to copyholders, it was explained two years afterwards, that they should be freeholders having 40*s.* a year. And shall we lower the qualification at this time of day? Will a copyhold of any kind sell for quite so much as a freehold? It is but lately that copyholders could serve on juries; they are now enabled by an act of the whole legislature; and shall any less authority give them this great franchise of voting for knights of shires?

Surely, Sir, there never was a time more unseasonable for such a compliment; whilst our possessions are in danger abroad, whilst we scarce think ourselves safe at home, let us not lessen our security by alarming that great body of people, the freeholders of England, who are all concerned in this question: and I must beg leave to say a word or two more in their behalf; it is a duty I owe my constituents, who have returned me four times to parliament: the freeholders are the *legales homines*, the commons; we are but their representatives. They are that part of the community for whom government seems to have been framed; the share they had in it shews their significance.

Baron Atkins, whose authority will always have great weight in this House, speaks of them as being anciently the guardians of English liberty; he puts us in mind, "That the statute 28 Edward 1, c. 8, and 13, grants to the people, to the commons, the election of their sheriffs every year:" and lord Coke, in his observations upon these statutes, says, "by the people and the commons is always meant freeholders:" the baron goes on and says, "nothing is more certain and clear than that the freeholders (who are often called the people, and are the true proprietors of the nation and land) had originally, and from the very first constitution of the nation, the election not only of all sheriffs, but of all other magistrates, civil or military, that had any authority over them under the king; so that they had a mighty freedom in the constitution of the nation. The freeholders had originally the election of the conservators of the peace, who are out of date by introducing justices, who have their power not by election of the freeholders as formerly, but are named by the king: the freeholders originally, and from all antiquity, did likewise by writ at the county court, stiled 'in pleno Folkemote,' choose the 'heretochii;' the 'ductores exercitus,' or lords lieutenants, all these great officers were chosen by the freeholders as our knights of shires are, and as coroners and verderers are chosen at this day."

These were great powers and freedoms, and enjoyed by the people as anciently as any of our records reach; and what remains, I hope, we shall deliver down to posterity, by giving a negative to this question; and if any sort of copyholders must have a right of voting, give it them by law; but let us not leave it to the will of the sheriff to receive or reject them as it may best answer ministerial purposes.

In the present case the sheriff must have taken copyholders into his calculation, or else the numbers would have been above 100 more in favour of the Old Interest; whereas in my poor opinion, he had no judicial capacity to make use of, but that of rejecting copyholders, leaseholders, and persons unassessed; for baron Atkins, whom I have already quoted, says positively, that "the sheriff is no judge at all in what he acts in the election of knights of the shire, but is only an officer upon record." Sir Edward Coke says, "if one be duly elected knight, and the sheriff return another, the return must be reformed and amended by the sheriff, and he that is duly elected must be inserted; for the election is the foundation and not the return."

I shall leave that matter to be debated by

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other gentlemen, but I will say thus much, if I had the 'furor parliamentarius' ever so strong upon me, I would die of that fever rather than be sent hither by such an instrument, which is disobedient to his majesty's writ, affronting to this House, and so unconstitutional, that the success can never justify the means. My hon. friends seek not senatorial dignities upon terms subversive of the laws. Tacitus says, "apud sapientes cassa habebantur quæ neque dari neque accipi salvâ republicâ poterant." I shall conclude with seconding the motion made by my hon. friend, and I second it with the same intention he made it, that the question may be put upon it, and that a negative may be put upon that question.

Mr. *Horatio Walpole*, jun.:.

Sir; I have heard many extraordinary and unnecessary motions made in this House; but I do not remember ever to have heard a motion made with a design to have a negative put upon it, which, I find, is the gentleman's design who has been pleased to make you this motion; and I do not think I ever heard a more unnecessary motion made in this House, nor was there ever a time more improper than the present, for our starting new disputes or employing ourselves in long and unnecessary debates. As to the question, whether copyholders, or if you please, customary freeholders, ought to have a vote at county elections, I do not think it a question of any importance: I am sure, our constitution cannot be any way concerned, what way it may be determined, or whether it shall now be determined, or no. By our original constitution, that is to say, by the original establishment of our tenures, it is certain that copyholders neither had, nor ought then to have had a vote at any county election; because they then really held the lands they possessed at the will of their lord, and might be turned out of possession whenever their lord pleased; they were not deemed a part of the people: they indeed were not really a part of the people; for they were the poorer sort of the ancient inhabitants, whom the Saxons, after they had conquered the country, allowed to live among them, and employed in all sorts of servile offices, and for that reason they were generally called *natifs*, as we may find from all our old law books. These *natifs* their conquerors the Saxons, held in such contempt, that they would not allow them to live in their own families, but assigned them a little house and a piece of land which they were to manure for their support, and they were distinguished by a great number of names according to the service which they were to perform to their lord and master, and sometimes from other causes; for *assart* lands which we have heard mentioned upon occasion of this election, I take to be lands which were at first taken out of the forest by stealth, and made fit for tillage by grubbing up the trees and underwood; and *purprest* lands, which we have likewise heard mentioned upon the same occasion, I take to be encroachments made upon the forest, or the lord's waste, and inclosed or made arable by some of the neighbours in times of confusion, both which were afterwards granted by copy of court roll to some of the lord's villains, or perhaps to freemen on condition of performing some villain service.

We cannot therefore, Sir, be surprised that copyholders or villains, as they were formerly called, were not allowed to have any share in our legislature, or that they were not allowed to have a vote at county elections, even when all freeholders were allowed to vote at such elections. When this happened does not so evidently appear from any record; for I must observe, that for many years after the Conquest, none but the king's freeholders, that is to say, those who hold in chief of the crown by grant or feoffment, were ever summoned to parliament either by particular writs, or by the general writ to the sheriff, as appears by the words of Magna Charta, quoted by the hon. gentleman who spoke last. The freeholders, that is to say, those who held by grant or feoffment from subject lords, even the most honourable of them, by whom I mean those who held by military service, were never summoned to parliament, nor was there any such thing as a county election even by the king's tenants *in capite:* on the contrary, the sheriff by virtue of the general writ, summoned whomsoever of the lesser barons he pleased, as I think is evident from the power he exercised with regard to the free-boroughs, which appear to have been sometimes summoned by the sheriff to send their representatives to parliament, and perhaps for several years afterwards neglected; for as a seat in parliament was not then of any advantage, no man ever complained of not being summoned, nor have we many instances of a free-borough's complaining, except when influenced by some great lord to serve a

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turn; on the contrary, the sheriff's agreeing not to summon was, I am apt to believe, a very pretty perquisite to the sheriffs of those days; and this power with respect to boroughs was very arbitrarily exercised by them even to the time of queen Elizabeth, as we may judge by the many boroughs restored to the privilege, formerly thought the burden, of sending members to parliament.

From what I have said, Sir, it is manifest, that we had no such thing as county elections, until that famous parliament summoned by the barons confederated against the ministers and favourites of Henry 3, in the 49th year of his reign. Then indeed the barons, in order to render themselves as popular as possible, got the king, who was a sort of prisoner in their hands, to summon a parliament, and by his writs for that purpose to order the conservators to return four, some say only two knights for each county, two citizens for each city, and two burgesses for each borough; and as these writs were ordered and directed by the barons, it is probable that all the freeholders who held of them, or rather all the freeholders of the kingdom, as well as those who held *in capite* of the crown, were allowed votes in the election of the knights who were to be returned by the conservators for each county. But as soon as that king was got out of the custody of the confederated barons, by his son's victory over them at the battle of Evesham; this sort of parliament was laid aside, though it was certainly agreeable both to the nobility and people, as is evident from Edward the 1st's restoring it in the 18th year of his reign, when he had so much occasion both for the hearts and purses of his people, in order to enable him to carry into execution his project for uniting Scotland to England, which he strenuously pursued during the residue of his reign; and indeed it is surprising that in so many years he was not able to accomplish it. However, the resistance he met with had this good effect, that it obliged him to continue the same popular method of calling and holding parliaments; and by this means the present happy form of our government became so well established, that it could never afterwards be altered in any essential part, and I hope never will.

Thus it is, Sir, that all the freeholders of England came first to have their representatives in parliament, and that the representatives of the commons began to sit in a house by themselves, and to have each a vote in the legislature of their country; for as to our great cities and free boroughs which held *in capite* of the crown, they probably had their representatives in our parliaments before this time, being summoned for that purpose either by a particular writ, or by the general writ to the sheriff, on account of the baronies they held of the crown; but they sate in the same assembly with the barons, and it is probable their chief magistrate was generally the person they sent, as we find that the lord mayor of London was of old summoned to many of our great councils. The commons likewise, that is to say, all such freemen as pleased to attend, were present at all our great national assemblies; for the Germans carried with them into all the countries they conquered, that custom observed by all of them in their own country, by which I mean, that of having all freemen present at their national assemblies; but then the multitude did not debate or vote upon any question proposed: they only approved of the resolves of their princes and magistrates by a general clattering of their arms, or they disapproved by a general murmur; and such was the regard then shewn to the voice of the people, that no resolution was carried into execution, if it appeared to be disagreeable to the multitude then assembled. Of this custom in Germany, Tacitus has left us a very particular account: "De minoribus rebus," says he, "principes consultant, de majoribus omnes: Ita tamen, ut ea quoque quorum penes plebem arbitrium est, apud principes pertractentur.—Ut turba placuit, confidant armati. Silentium per sacerdotes, quibus tum et coercendi jus est, imperatur. Mox rex vel princeps, pro ut ætas cuique, pro ut nobilitas, pro ut decus bellorum, pro ut facundia est, audiuntur, auctoritate suadendi magis quam jubendi potestate. Si displicuit sententia, fremitu aspernantur; sin placuit, frameas concutiunt. Honoratissimum assensus genus est, armis laudare."

This I say, Sir, was the custom among our ancestors the Germans in their own country, and our old histories shew that they carried it with them into Italy, Spain, France and England, which is confirmed by many of our old laws and old records; for wherever the words "populi multitudo," or any words to that effect, are mentioned to have consented, or to have been present, we are to understand it to mean a multitude of people assembled according to this tumultuous custom, and

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not that the commons were regularly assembled by their representatives, as they are now in this House, and have been ever since the 18th of Edward the 1st, which is near 500 years since, and consequently shews the wisdom and the usefulness of the institution, as no history, I know of, furnishes an instance of any political institution that has lasted so long with so little variation; therefore I think it a very trifling dispute, and fit only for antiquarians, to contend for carrying it back beyond the 18th of Edward the 1st, or the 49th of his father Henry the 3rd; for as to every political establishment, the chief point to be considered is, whether it tends to the good of society and the happiness of the people, which I think is sufficiently manifested by a continuance of near 500 years; and if we continue to shew the same regard to the voice of the people that was shewn by our ancestors the Germans, I make no doubt of our present form of government being continued until time shall be no more; but by the people I mean, Sir, what has always been meant, that is to say, every man that is or ought to be deemed a freeman; for during the far greatest part of the time I have been speaking of, our copyholders were actual slaves, or deemed to be such in the opinion of mankind: even so low as the reign of queen Mary, we have among our records a deed of manumission granted by the bishop of Ely to a man and his three sons who were copyholders, or *nativi* as they are called in the deed, of his manor of Shipdham in Norfolk; for though copyholders were long before that time secured in the possession of their copyholds, to them and their heirs, according to the custom of the manor, though many freemen had before then accepted of copyhold estates, and though it was become an established rule in law, that a freeman's accepting of a villenage tenure did not make him a slave or a *nativus*; yet they were still deemed to be in such a slavish condition, that they were not as copyholders allowed a share in the legislature, or to concur with freeholders in any county election.

But now, Sir, and indeed for many years past, our copyhold estates or villenage tenures are most of them become as free as any other sort of tenure. The services are in most manors converted into a certain quit-rent, the fine is either become certain by the custom of the manor, or is made certain by law, for the rule I think is, that it must not exceed two years rent; and the possessor is in every respect deemed as much a freeman as any freeholder in the kingdom: nay, it is by express statute allowed as a qualification for a gentleman being a member of this House; for a copyhold of 300*l.* a year above all deductions intitles a gentleman to sit in this House as the representative of a city, borough, or cinque-port; and if he has 600*l.* a year copyhold estate, he may be chosen and sit here as knight of a shire. To this let me add, Sir, that copyholders are by express statute declared to be "liberi et legales homines;" for in the act of the 4th and 5th of William and Mary for regulating juries, the writ prescribed by that act to be sent to the sheriff for returning a jury is in these words, "Quod venire facias coram nobis, &c. duodecim liberos et legales homines;" and the same act directs, that all jurors to be afterwards returned by the sheriff shall have within the same county 10*l.* a year at least, above reprizes, of freehold or copyhold lands, or of lands in ancient demesne. And as to the last mentioned sort of lands, I must observe, that though tenants in ancient demesne are generally copyholders, yet by our lawyers they are said to have a freehold, and in some respects are treated as such; for if the manor be in the hands of a subject, and any of these tenants be convicted of felony, the king shall have his year and day in his lands thereby escheated to the lord of the manor, in the same way as he has in a freeholder's lands which escheat to the lord of the manor within which they lie, upon the freeholder's being guilty of felony; whereas in all other sorts of copyhold lands, the king has no year and day, but the lands escheat directly to the lord of the manor, upon the copyholder being guilty of felony.

Now, Sir, I must think it a little preposterous, that landholders, who by our lawyers are said to have a freehold, and in some respects are by law treated as if they had; who by express act of parliament are called legal freemen; and who by express act of parliament may have a seat in this House, nay, who may be chosen to represent a county, shall not have a right to vote at any county election; therefore I should not think it very extraordinary, if the question upon the hon. gentleman's motion should be agreed to, which, I believe, would be contrary to his expectation; and I must think, that it would be of advantage, rather than of prejudice to our

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constitution, as liberty, like a pyramid, must always stand the firmer, the more you increase its base; and I have always heard it represented as one of the beauties of our constitution, that every freeman in the kingdom has a share in our legislature, either by himself or his representative; whereas, at present our copyholders, who are a very great and numerous body of men, have no share in the legislature of their country.

However, Sir, though at first view I am of opinion, that our agreeing to the question upon this motion, would add strength to our constitution, and though I think that it would be but justice to admit that body of men to a share in our legislature, as every reason for excluding them has long ago ceased, yet I cannot say that I have considered the point so fully as to be able to pass a final judgment upon it; and as there is no necessity for a present decision, I shall be for putting it off by the previous question; for I do not think there is the least ground for the pretence, that until we determine this point the sheriffs will have an arbitrary power over every county election; because it may not happen once in an age that the copyholders of any county can throw a majority upon either side at an election, as they as well as the freeholders will generally divide, and if the sheriff admits copyholders of one side, he must admit them of the other. I believe no county was ever more equally divided than the county of Oxford at the last election; and yet it is evident, that the candidates in whose favour we have determined, had a majority of legal votes without reckoning the customary freeholders, as they were called, who voted for them at that election; and such an equal division may not again happen in any county in England for this 100 years to come. Therefore our delaying to determine this point can never probably add to the power of the sheriff at any future county election.

But now suppose, Sir, that this were a danger to be apprehended, is there any occasion to prevent it by a vote of this session? We have in all probability five or six sessions more to sit before there may be any new general election; and if it should be thought proper to determine this point by a vote, we may do it next session, or in some future session of this parliament, after the question has been fully and maturely considered, and the several sorts of copyholders enquired into; for this is a branch of learning which I must declare myself to be very ignorant of, and I believe there are many gentlemen here present who are in the same situation. I have said, Sir, if it should be thought proper to determine this question by a vote of this House; because I really think it ought to be determined in a more solemn and deliberate manner: if all copyholders, or any sort of copyholders, are to be declared to have a right to vote at county elections, I concur in opinion with the hon. gentleman who spoke last, that it ought to be done by a law for that purpose; because I think it would be necessary to alter the oath now appointed by law to be taken by the voters at such elections; for whatever some of my friends may think, I must be of opinion, that it is taking a jesuitical liberty with the religious ceremony of an oath, in any copyholder who votes in right of his copyhold, to take the oath now appointed by law to be taken; and besides, if you give them a right to vote for knights of the shire, you ought certainly to give them a right to vote for coroners, verdurers, and at every other sort of county election; and I must think, that it would be necessary at the same time to make them members of the county court; for the electing of knights of the shire, coroners, and verdurers, is a part of the business of that court; and how can a man vote at any of these elections who is no member of that court, nor has any right to appear there? But none of these things can be done by a vote of this House; and therefore I must think it would be very improper to have the question upon this motion pass in the affirmative.

On the other hand, Sir, if all copyholders, without distinction, are to be excluded from a right of voting at any county election in England or Wales, I must likewise think, that this cannot be properly done by a vote of this House; because it is certain, that in some counties in England, and in many, as I am told, in Wales, some sort of copyholders are in possession of a right, or at least a custom, to vote for knights of the shire, and to take this right from them by a vote of this House, would be the same with turning a man out of his right without hearing what he has to say in support of it, which would not be consistent with our constitution, nor in my opinion with common justice. Whereas, if you put this matter off till next session, and then order in a Bill for the purpose, every man will have an opportunity to be

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heard against the Bill if he pleases, or to apply for an exception with regard to himself and all such as are in the same circumstances. Now, Sir, as the motion under our present consideration is conceived, if the question should be put upon it, and a negative put upon that question, I think it would imply an exclusion of all sorts of copyholders from a right of voting at any county election, either in England or Wales; for if a copyholder, who has not in his copy the words, "at the will of the lord," has no such right, I am sure, no sort of copyholder can be supposed to have any such right: and as I think, that such a general declaration by a vote of this House would be inconsistent with common justice as well as with our constitution, I cannot agree to it.

Therefore I hope, Sir, that our coming to any determination in the matter now before us, will be put off by the previous question, and if in the next session a proper Bill should be brought in for declaring that all copyholders, who hold at a certain fine by the custom of the manor, and at a certain rent in lieu of all services, shall from thenceforth be deemed freeholders in every respect, I believe, I should agree to it, because I think, it would be consonant to what the legislature has already done with respect to copyholders; and because I look upon such copyholders to be as much freemen as any freeholder who has granted a rent charge out of his estate, yet no objection could be made against the vote of such a freeholder, if his estate amounted to 40*s.* a year over and above what was to go out of it for the payment of that rent. And indeed, if a lord agrees to accept of a certain rent in lieu of all services, it seems to me to be a sort of infranchisement of the estate, as the law has long since given the inheritance to the copyholder; for the tenant can no longer be properly said to hold by villenage tenure; and it is certain, that this was of old the method of infranchising a borough; for most of our boroughs were originally in villenage, that is to say, the lord could make them pay and perform what rents, duties, and services he pleased, which he collected by his own officers, but when he granted to the inhabitants their markets, fairs, and other duties, and agreed to accept of a certain rent, the borough then became a free borough, and their tenure was no longer deemed a villenage tenure, but a free burgage.

For these reasons I say, Sir, I believe, I should be for having such a Bill passed into a law; for so far as I can judge at present, I do not think it could any way tend to the prejudice of the constitution, or that it could give the other House any dangerous influence over the elections of the members of this; for such copyholders would be as independent as the freeholders now are of the lord of the manor to which they belong, and would vote as freely at every election; nor have we, I think, any reason to fear, that the members of the other House will ever become possessed of too large a share of the landed property of this kingdom, as long as they have liberty to sell or dispose of their estates; for whilst they have this liberty, we may from experience depend upon it, that generally speaking, as much of their landed property will be again thrown into the hands of the commons by the indolence and extravagance of the heir as was drawn out by the vigilance and parsimony of the ancestor. But as these things cannot come properly under our consideration until such a Bill as I have mentioned be brought in, I shall now conclude with moving for the previous question.

Mr. *Richard Beckford:*

Sir; I shall agree with the hon. gentleman who spoke last, that it is a dispute of no importance, whether our parliaments, or as they were anciently called, our witenagemotes, always consisted of two houses, as they do now, and always have done, since the reign of Henry the 1st, or at least the 18th of his son Edward the 1st; but, I believe, that gentleman will not deny, and indeed it cannot be denied by any gentleman who has dipped ever so little into our ancient history, that originally among the Saxons all the great officers, both civil and military, were chosen by the people in their several districts, or by witenagemote itself, with the approbation of the king; for this may be deduced, not only from our own histories, but also from what Tacitus says of the ancient Germans; for he tells us, that the king of each tribe was so by his birth, but their general or leader in war was chosen by the people on account of his military character. "Reges ex nobilitate, duces ex virtute sumunt," are his words; and after giving us an account of their popular assemblies, he says, "Eliguntur in iisdem conciliis et principes, qui jura per pagos vicosque reddunt. Centeni singulis ex plebe comites, consilium simul et auctoritas

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adsunt." From hence, I think, we must conclude, that our witenagemotes originally consisted of the great officers chosen by the witenagemote, and the chief officers chosen by the people in each of the large districts, or what we now call shires; consequently, that a great, probably the greatest number of its members were chosen by and represented the people. And such a regard had those representatives to the voice of their constituents, that they not only allowed all such of them as pleased to be present at their consultations, but refused to agree to any proposal if it appeared to be disagreeable to the people then attending: nay, so great was their regard for the voice of the people, that in other countries as well as this, their assemblies were often held in some open field, that a greater number of the people might be present, as seems to be evident from many ancient records; for the dignity of those assemblies did not consist in the secrecy, but in the decency of their debates, and the wisdom of their resolutions.

I shall indeed grant, Sir, that this original form of government did not long continue without interruption; for either by the people's continuing the same office long in the same family, or by the usurpations even of the Saxon kings, many of these offices became hereditary, or came to be vested in the crown, and grantable by the sovereign, sometimes with, and sometimes without the consent of the witenagemote. However, many of them continued even after the Conquest, and some of them, especially in our cities and great boroughs, to this day continue to be in the hands, and at the election of the people. Therefore from the time of the Conquest, it is probable, that the people in general had no share in the legislature, until our present form of government was introduced; but that they continued sensible of the share they had formerly had, and that they generally desired to have it in some shape or other restored to them, is evident from what was done by the confederated barons in the reign of Henry the 3rd, with a view to recommend themselves to the favour of the people; for if there had not been a general desire among the people to have a share in the legislature by representatives chosen by themselves, the confederated barons could never have thought of such a method for recommending themselves to popularity; and the people could not have had any such general desire, if they had not known that their ancestors once enjoyed such a valuable privilege.

Now, Sir, to discover with as much probability as we can who were the voters at our first county elections, we must consider how the Saxon armies by whom this country was first subdued were composed, because from thence we may guess how the country they conquered was divided among them. It is certain, I think, that the Saxon armies were not divided into regiments or battalions, consisting each of a certain number of soldiers in daily pay, and commanded by officers appointed by the chief general; because they had no money for answering such daily pay, and because Tacitus has told us, that the Germans engaged in battle by their tribes or families; "Quodque præcipuum fortitudinis incitamentum est, non casus, nec fortuita conglobatio turmam aut cuneum facit, sed familiæ et propinquitates, et in proximo pignora:" And Cæsar has told us, that even in time of peace they lived together by tribes or families: "Sed magistratus ac principes, in annos singulos, gentibus cognationibusque hominum, qui una coierunt, quantum et quo in loco visum est, agri attribuunt." Therefore we must presume, that the Saxon armies consisted of a number of tribes commanded by their respective princes, and all confederated together under the command of the prince who they had agreed should be their chief leader or general; that each tribe again consisted of a number of families, each under the command of an inferior prince; and subject to the command of the prince of the tribe; and lastly, that each family consisted of a number of common soldiers; consequently, the number of each tribe and family must have been uncertain, consisting only of such as the prince could get to follow him from his own tribe or family in Germany. We may likewise presume, that they brought from home with them only as much provisions as might serve till they arrived in the enemy's country, from which time they depended for their daily support upon their plunder; and that all the reward expected either by officer or soldier was a share of the booty, or of the lands they should conquer; for as they came here to a cultivated country, and in search of a new habitation, we may suppose that every officer and soldier expected some sort of property in the conquered lands he was to have for his share, which indeed was contrary to

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their old custom in Germany, where Cæsar tells us they had no fixt property in any lands for above a year.

Thus, Sir, we may most reasonably suppose the Saxon armies were constituted: these we may suppose were the expectations both of the officers and soldiers when they arrived in this country; and our own histories and records will shew us how their expectations were answered. For this purpose I must observe, that long before the reign of Alfred, the whole kingdom was divided into shires, manors, and hydes, which words were brought in by the Saxons, because we find them in all our histories presently after their settlement here, and none of them before that time; therefore I must suppose, that when a Saxon army subdued any part of the country, they divided it among the chief princes, allowing to each a share in proportion to the number of his tribe, and this share was what was afterwards called a shire. Then each of those princes divided his share amongst the inferior princes of his tribe, each of whose shares was called a manor; and each of these princes again divided his share amongst the common soldiers of his family, allowing to each man as much as was sufficient for maintaining him and his family, and this portion of land was called a hyde. From hence it came that shires, manors, and hydes of land were very different as to their extent; for the extent of shires and manors was in proportion not only to the goodness of the land, but to the number of men the prince had under his command; and the hyde was in proportion to the goodness of the land. However, it is certain, that even in the richest land a hyde was of considerable extent, because William the Conqueror imposed a tax of 6*s.* upon every hyde of land throughout the kingdom, which was equal to a tax of 6*l.* now; for the usual price of wheat was then about 1*s.* a quarter, as we may judge from the act of the 51st of Henry the 3rd, for regulating the price of bread, which exacts, that when a quarter of wheat should be sold for 12*d.*, bread of a farthing should weigh 6 pounds, 9 ounces, and a 12 penny weight, according to Troy weight; consequently 6*s.* was equal to six quarters of wheat, which would now sell for 6*l.* sterling.

From hence we may see, Sir, that every Saxon soldier, after their first settlement here, had a property in a large parcel of land: these, Sir, were at first the only freemen under their government: these were the only men who had a right to vote for any magistrate or civil officer, or to appear at their witenagemotes. And from hence we may conclude, that the maxim established by our ancestors was, that no man should have a right to vote at any county election, or to appear at the witenagemote, but such as had not only a freehold, but a freehold sufficient for the support of their families; and as several sorts of county officers continued to be chosen by such freeholders, till some time after the 49th of Henry the 1st, I think it is evident, that all such, and none but such, were allowed to vote for knights of the shire that were then chosen; for I take the law of the 8th and that of the 10th of Henry the 6th, to be declaratory of what was law in the reign of Henry the 3rd or Edward the 1st; and at that time a freeholder who had a freehold of 40*s.* per annum might thereby very sufficiently support his family, as it was equal to 40 quarters of wheat, that is to say to 40*l.* at present. I shall, indeed, grant, that in the 10th of Henry 6th, an estate of 40*s.* a year was not so valuable, because the current value of money had been raised, and it was grown more plenty, and consequently the price of wheat and every other commodity was raised in proportion; but as it then probably appeared by some record, that a freehold of 40*s.* a year was what entitled a man to a vote in the reign of Henry 3rd or Edward 1st, it was not thought proper to extend the restraint any further, especially as multitudes were by that law excluded from voting, who for some time before had assumed and exercised that privilege, which made it dangerous to extend the restraint any further. However, 40*s.* a year was then a much better estate than it is at present, as it would purchase eight or ten times as much of all the necessaries of life as can now be purchased for that money; for even so high as the year 1533 we find it recorded in some of our histories, that three pounds of beef usually sold at London for a penny.

Sir, I have troubled you with so much of our ancient history to shew how far we have already departed from the wise maxims of our ancestors; and the inconvenience of our having done so, is now felt by every gentleman who stands candidate at a county election. How much more will it be felt if you open a door, or allow the sheriffs to open a door, to all our little co-

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pyholders to vote at county elections. The hon. gentleman was pleased to tell us, that all freemen ought to have a share in our legislature: he may as well tell us, that we ought to admit all leaseholders, nay and all cottagers, to vote at county elections; for they are all freemen. Thank God, we have now no slaves in this kingdom: I mean, slaves to their masters; for I fear we have too many slaves to their passions, and I do not know how soon they may make us all slaves to our government. A pyramid will stand the firmer, I shall grant, the wider you make its base; but if you give it a rotten base, it will soon tumble and crush those that erected it; and the pyramid of our liberties has already, I fear, so much of rottenness in its base, that it is, or will soon be in great danger of tumbling, if you do not soon pare away the rotten part. Towards which side it may tumble, I shall not pretend to foretell; but if it falls at all, it will certainly crush this House, and make us the slaves either of the crown, or of the other House; and if you do not put a negative upon this motion, the last will, in my opinion, be the most probable; for it will throw a great weight into the other House at every county election. The eyes of the vulgar are always dazzled with high titles and a shining equipage, and the poor taste so little of the sweets of liberty, that they will always sell it for the most trifling consideration; if you trust your liberties to those who do not know how to preserve them, or those who have no interest in preserving them, they will certainly be stolen or bought. Who was the author of the notes upon Rapin's history I do not know, but whoever he was, he seems, by a note at the end of Henry 6th's reign, to have foreseen what is now aimed at, and to have done what he could to prevent it, by setting in a proper light the danger of admitting the multitude to a right of voting at county elections; for they, says he, cannot judge of persons or times; but being, for the most part, led by faction or affection, rather than by right understanding, make such elections as are either inconvenient, or injurious to the state.

Whatever may be the hon. gentleman's way of thinking, Sir, he mistook extremely when he supposed it possible, that a majority of this House should agree to this motion. We may by a new law give copyholders a right to vote at county elections; but it is impossible for any gentleman deliberately and sincerely to aver, that copyholders of any sort have a right to vote at county elections, within the intent and meaning of the laws, confining the said right of election to estates of freehold only. Every gentleman must see, that these words were added by the hon. gentleman who made you this motion, on purpose to render an agreement to his motion ridiculous; and the hon. gentleman himself who spoke last, gave us very good reasons for concluding, that it would be ridiculous in us to attempt to give any sort of copyholders a right to vote at elections for the knights of the shire, by any other sort of method than that of passing a new law for the purpose. But this, Sir, we shall do, by implication at least, if we do not put an express negative upon this motion; for as it is certain, that the sheriff, at the late election for Oxfordshire, did not only admit copyholders to vote at that election, but included them in his calculation of the numbers upon the poll, as this is known to the whole kingdom, and as it is likewise known to the whole kingdom, that we were sufficiently apprized of this, and yet refused to pass any censure upon the high-sheriff for so doing, it will be from thence supposed, that all copyholders of 40*s.* a year have, in our opinion, a right to vote for knights of the shire, unless we prevent it by putting an express negative upon this motion; and now the motion has been made, our waving to put a negative upon it by means of the previous question, will be such a confirmation of this supposition, as will at least render it unjust in this House, at any time hereafter, to punish or censure a sheriff for acting according to it.

What can we think, Sir, will be the consequence of such a conduct? Gentlemen who have no regard for the true interest or the laws of their country, will stand candidates at every county election, and procure the votes of as many copyholders as they can; whereas gentlemen who have any such regard, will scorn to sacrifice the interest, or to transgress the laws of their country, for the sake of acquiring the honour of a seat in this assembly; for indeed, nothing can be truly honourable that is acquired by such means. In such an unequal contest, as we know how the sheriffs are appointed, can we expect that under a wicked administration the former sort of candidates will not generally be the members returned by the sheriff, if we leave it in his power to do so, by refusing to put a negative upon this

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motion? And can we expect that such members will refuse to comply with any thing required of them by those who at that time have the chief rule over us, and the disposal of all pensions and profitable employments? If that should then happen to be a faction of the other House, they may fix the balance of our government absolutely and for ever in favour of their own House. One Bill or two, both very plausible in their nature, would do the business; and if these Bills should pass this House, it might be out of the power of the crown to prevent their being passed into laws; for we know that in a famous instance the other House assumed a right to determine, that a person raised to the peerage by the crown should not have a seat in their assembly. The decision was then popular, and therefore not much taken notice of; but no one can say how far the precedent may be extended, by a faction in that assembly aiming at establishing an arbitrary power in their own body, and supported by a corrupt majority in this.

Shall we, Sir, delay providing against such a manifest danger, under pretence that we must not take away a right which a man is in possession of, without first hearing him in support of his right? If a man should claim a right to rob upon the highway, and should have exercised that right for 20 years, do we think, that any court would allow him to plead such a right in arrest of judgment, or delay passing judgment until they had heard what he could say in support of the right he contended for and had long exercised? A copyholder's right to vote for knights of the shire is of the very same nature: it is equally against law, and may be more detrimental to the public, than a single man's right to rob upon the highway. Therefore he can plead no possession from having exercised it: if he ever did exercise it with impunity, it was because he was never detected and prosecuted, which he might have been, and may still be, by any informer, upon the statute of the 10th of queen Anne, or upon that of the 5th of Elizabeth against perjury, if he took the oath appointed by law to be taken, if required, by every person claiming a right to vote at any such election. Therefore nothing can be more clear, than that no copyholder can at present be in possession of a right to vote at any county election, consequently this can be no argument for our delaying to put a negative upon this motion, and as it is, I think, now become absolutely necessary for us to do so, I shall most heartily concur in that negative, in order to which I shall give my affirmative to the previous question; and I shall think our constitution in the utmost danger, if I am not in both supported by a great majority of this House.

Mr. *Henry Fox:*

Sir; as the question now before us is a very short and a very plain one, I have no occasion to enter into an examination of remote antiquity, or to consider what was the nature of our copyholds, and the state and condition of our copyholders, by their original institution: as little have I occasion at present to consider, whether the admitting of all, or any sort of copyholders to vote at county elections, would be an advantage or a disadvantage to our constitution. The first of these two enquiries will always be, in my opinion, a question of mere curiosity but no importance; because the state and condition of all our copy-holders is now certainly upon a footing quite different from what it was by their original institution: and as to the second, it is a question that cannot come properly under our consideration, until the question now before us be determined, which is plainly and in short this, whether it be now, and by the method proposed, prudent or proper to determine a question of so much importance to our constitution, and to the future happiness of the people in general. Now, Sir, as this question consists of two parts, I shall examine them separately, and first as to the time, I cannot think that at the end of a session, in a thin House, and before the people without doors have been apprised, that any such question was to come before parliament: I say, that at such a time, and in such circumstances, it would be very improper to determine a question of so much importance. Besides, Sir, in order to determine this question, it would be necessary to have laid before us, an account of the manors in each respective county, and the number and circumstances of the copy-holders, as also the particular customs of each respective manor, none of which we have now before us, nor can have before the end of this session: nay, even as to the particular customs of each respective manor, though they make a part of the law of England, yet they are so various, and so different in every manor from what they are in any other, that, I believe, no gentleman of the

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long robe can pretend to be able to give us any tolerable information. And if some sort of copyholders have, time out of mind, been allowed in some counties a right to vote at elections for knights of the shire, surely you would not, even by Bill, deprive them of a right which they have acquired by immemorial custom, without first hearing what they have to say in support of a right so legally acquired; for such a right is very different from a right to rob upon the highway, which the hon. gentleman who spoke last was pleased to compare it to; for a right to rob upon the highway is contrary to reason and justice, and therefore cannot be acquired by custom; but a right to vote at county elections is neither contrary to reason nor to justice, and therefore may be acquired by custom or prescription, in the same way as the lord of a manor and his copyholders, may by prescription acquire a right of common in the waste of another lord's manor.

With regard to the time therefore, Sir, I think the present is very far from being a proper time for us to enter into the discussion of that question, whether it would be an advantage or a disadvantage to our constitution, to admit all or any sort of copyholders to vote at elections for knights of the shire. And as to the method either of admitting or rejecting them, we cannot certainly do it by a vote; for though we are in this House the only judges of all matters relating to elections of the members of this assembly, we are not the only legislators. If upon a controverted election for any county a question should arise, whether the copyholders, or any certain sort of copyholders, within that county, had a right to vote at that election, we could determine that question by a vote; but we cannot surely determine by a vote, that no copyholder in England has a right to vote, or that all the copyholders in England, of a certain sort, have a right to vote at county elections; because this would not be determining a question in dispute before us; it would be making a new law, which we cannot do without the concurrence of the other House and the approbation of the crown; and another reason is, that upon a controverted election for any county, all those who claimed a right to vote at that election ought to be present, and are really present in the persons of their respective candidates, whereby they have an opportunity to be heard in support of the right they claim; and the freeholders of the county are likewise in the same way present, and may contest the right claimed by the copyholders, if they should be of opinion, that the allowing such a right would be any way injurious to them. By this means we should have the matter on both sides fully before us, and should be able to decide according to reason and justice; whereas in the latter case neither the freeholders nor the copyholders could, or could be supposed to be present; so that we could have no proper information either as to facts or customs, and consequently the justice we pretended to administer would be deaf as well as blind.

But, Sir, if I approved both of the time and the method for determining this question, I should be against our coming to any resolution upon it at present, because I do not think that it is now properly before us, nor have we any occasion to bring it before us: nay, it is highly probable we shall never have any such occasion; and I shall never be for altering the laws of England, or loading our statute books with a new law, unless it appears to be necessary for removing some grievance or inconvenience already felt, or preventing one that is justly to be apprehended. From the late election for Oxfordshire we can have no call for bringing such a question before us; for the merits of that election did not depend upon the question, whether any copyholders had a right to vote at that election or no; because the two gentlemen in whose favour we have determined that election, had a majority of legal undoubted freeholders voting for them; and until a contested election happens in some county, where the majority depends upon admitting or not admitting the votes of some copyholders, which is a case that may never happen whilst this world endures, we can have no call to determine whether copyholders have a right to vote at county elections or no. But suppose such a case should happen, and should be brought before this House by petition, there would be no occasion for any resolution, either in favour of, or against copyholders in general: all we could do, and indeed all we ought to do in such a case, would be to examine the right of the copyholders within that county who voted at that election: both the freeholders and copyholders of that county would then be properly before us, and all the necessary facts as well as customs would certainly by full proof be laid open to our view: if from thence it should appear, that such copyholders

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had for time immemorial voted at elections in that county, we ought, I think, and, I believe, this House would determine in their favour: on the other hand, if it should appear, that no such copyholders had ever voted at elections in that county; and that the sheriff had out of mere partiality allowed them to vote, that he might from thence have a pretence to return his own friends, or those perhaps who had paid him for doing so, has there any thing lately happened that could be pleaded as an excuse for such conduct in the sheriff, or that could prevent its being in the power of this House to punish him as he deserved?

There cannot therefore be the least pretence, Sir, for that danger which has been suggested, that by refusing to come to any general resolution with respect to copyholders, we shall throw too great a power into the hands of our sheriffs over all county elections; but there is very great danger that by rashly agreeing to such a general resolution, we may do an act of flagrant injustice, by depriving many gentlemen of a right which they and their ancestors have enjoyed for several generations, and which they are now in the quiet possession of, without giving them so much as a moment's notice to come and defend their right. I say, gentlemen, Sir, for there are certainly many gentlemen in this kingdom who have very large copyhold estates; and as such gentlemen pay as high taxes in proportion, and are as ready and as well qualified to defend their country in time of danger, as any freeholder whatever, I can see no reason why they should not be allowed to vote at county elections, if by the custom of the county they have been time out of mind allowed to do so. But if there are counties where no copyholders have ever yet acquired or enjoyed such a right, and, I believe, there are several such, I can see no necessity for giving them such a right, nor any danger that our constitution can be exposed to by our not giving them such a right, especially as I do not find that any of them do so much as desire it; and if they should desire it, I do not think, that we could do it by a vote of this House: our attempting to do so, would be an encroachment upon our constitution, by setting ourselves up as the sole legislators of this kingdom, which never was attempted by any House of Commons but that which met here in 1641, and we know what terrible confusion ensued from that attempt. Therefore if our rich copyholders should petition for a right to vote at all county elections, and we should think it expedient to comply with their request, the only method we could take, in conformity with our constitution, would be by a new law for that purpose, and before any such law or bill for the purpose could be prepared, it would be necessary to address his majesty to order the sheriffs to prepare an account of the manors within their respective counties, and of the number and circumstances of the copyholders, and of the particular customs in each respective manor, to be laid before us in the next session of parliament; for no one can suppose that such an account could be made out before the end of a session. This I say, Sir, would be necessary, because every gentleman, I believe, will allow, that there are some sorts of copyholders who ought not, even by a new law, to be admitted to vote for knights of the shire; and it would, I think, be necessary to fix the yearly value of a copyhold estate that should intitle a man to vote at such elections, at a higher value than that of a freehold, which now by law intitles a man to that privilege, because of the fine that is to be paid upon the admittance of every new tenant; for though the fine itself may be certain, yet it is, and always will be uncertain, how often it is to be paid; and the value of this uncertainty ought not surely to be left to be determined by the judgment of the copyholder himself.

Thus, Sir, in every light in which we can view the motion now under our consideration, we must think it one that cannot now be either agreed to or rejected, and consequently giving a negative to the previous question, is the only proper way of disposing of it, unless the hon. gentlemen will agree to its being withdrawn; for from its being either withdrawn, or put off by means of the previous question, no kind of danger can ensue. The power of the sheriffs at county elections will continue to be the same it is now: that is to say, they will be obliged to admit every man to vote at such elections who can shew, that he has a right by law or custom to such a vote; and if they admit any others, they will be not only under the controul of, but liable to be punished by this House, if it should appear, that they did so from any sinister or corrupt view; for in an affair where the most clear-sighted are liable to error, and where questions often arise which are in their own nature

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doubtful, I am far from thinking, that a mere mistake in the sheriff ought ever to subject him to any punishment. The office is already so dangerous as well as troublesome, that most gentlemen make use of all their interest to evade serving it, and if we by our severity should render it still more dangerous, we shall arm the crown with a weapon for keeping all the landed gentlemen in the kingdom under a continual awe and terror, which surely those gentlemen would not choose to do, who upon this occasion appear so strenuously against allowing any copyholder a right to vote for knights of the shire.

But, Sir, what surprizes me most is to hear these gentlemen finding fault with, or dreading the consequence of increasing the number of voters at any election; for by them, or such as them, I have often heard it alledged, that ministers, or those who aim at undermining our constitution, are always endeavouring to lessen the number of electors at every election, because the smaller their number, the more easily they may be managed and directed by court influence; and even in this very session we may remember, this argument was made use of against the Bristol Bill; for it was said, that as the magistrates of that city are but a small number, and not chosen by the people, therefore our ministers were for lodging as much power as possible in their hands, in order thereby to give them the nomination of those whom the people of that city were to choose as their representatives in parliament. Thus, Sir, the fate of our ministers seems to be a little hard; for if they are at any time for lessening the number of electors, they are accused of having a design to undermine our constitution; and if they are for increasing the number of electors at any election, they are equally accused of having the same design. For my own part, Sir, I believe we have not for many years had any such deep designing men for ministers; and if we have any such at present, I am sure, they can reap no advantage from our putting off the affair now before us by means of the previous question.

Colonel *George Townshend:*

Sir; I shall most readily agree with the hon. gentleman who spoke last, that the question now under our consideration is a very plain and a very short one, and yet plain as it certainly is, it was *toto cælo* mistaken by him, for I am convinced it was not wilfully and designedly misstated by the hon. gentleman. The question is not, Sir, whether the admitting of all, or any sort of copyholders, to a right of voting at county elections, would be beneficial or prejudicial to our constitution; for this, though a short question, is very far from being a plain one; because in its own nature it is very doubtful, and would require a strict scrutiny into our laws, both ancient and modern, and a thorough information as to the circumstances and customs of all the manors in England. Whereas, the true question now before us is really a plain as well as a short one, as it is no more than this, whether by the laws now in being any copyholder in England can have a right to vote by virtue of his copyhold for knights of the shire? And this question may be certainly and absolutely determined by the perusal of only three or four acts of parliament, the words of which are so explicit and express, that their meaning cannot be perverted by the most artful casuist in England. The acts of parliament I mean, Sir, are, the act of the 8th of Henry the 6th, as explained by an act of the 10th of the same reign; the act of the 7th and 8th of king William for regulating elections of members to serve in parliament; and the act of the 10th of queen Anne, for preventing fraudulent conveyances to multiply votes for knights of shires.

These, Sir, are all the laws or law books we have occasion to look into for determining the question now before us; and I shall beg leave to read, and to make some remarks upon such of the clauses of them as I think most material to the present purpose. The words of the act of the 8th of Henry the 6th, are as in the abridgment thus: "The election of knights of the shire shall be made by the more voices of people dwelling in the counties, having each of them lands or tenements to the yearly value of 40*s.* besides reprise." These, Sir, are the words, and as these words were general, it is highly probable, that some copyholders began to claim a right to vote at such elections; therefore in the very next session but one, the act of the 10th of that reign was passed, which says, "A chooser of knights of parliament must be resident, and have freehold with 40*s.* per annum, besides reprises, within the same county." And as this last act contains no other regulation whatsoever, it is from thence, I think, evident, that it was made on purpose to prevent any copyholder from having a pretence to

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claim a vote at any such election. Then, Sir, as to the act of the 7th and 8th of king William: in that clause which directs the taking of the poll, it says, "Before they begin, every clerk so appointed shall by the said sheriff or under sheriff, be sworn truly and indifferently to take the said poll, and set down the names of each freeholder, the place of his freehold, and for whom he polls, and to poll no freeholder who is not sworn, if so required by the candidates, or any of them." In another part of the same clause, the act says, "And every freeholder, before he be admitted to poll, if required by any of the candidates, shall take the following oath." And the words of the oath are, "You shall swear that you are a freeholder for the county of and have freehold lands or hereditaments, of the yearly value of 40*s.* lying at within the said county." Lastly, Sir, as to the act of the 10th of queen Anne, it says thus, "Every freeholder, before he is admitted to poll, shall, if required by the candidates, take this oath." And the words of the oath are, "You shall swear that you are a freeholder in the county of and have freehold lands or hereditaments in that county, of the yearly value of 40*s.* above all charges payable out of the same; and that such freehold estate hath not been made or granted to you fraudulently." And in the next following clause it is said, "A freeholder convicted of wilful perjury, or any one corrupting or suborning a freeholder to commit wilful perjury, and being thereof convicted, shall incur the penalties of the act of the 5th of Elizabeth."

Having thus given you the words of these acts, I shall next observe, that the word copyhold, or copyholder, or customary freeholder, is not mentioned in any of these acts, nor in any one statute for regulating the elections of knights of shires; and now, Sir, let any gentleman lay his hand upon his heart, and declare upon his conscience, whether he thinks, that by these acts, particularly by that of the 10th of Henry 6th, all copyholders, without distinction, are not excluded from any right to vote at elections for knights of the shire. And as to the prescription and immemorial custom which the hon. gentleman insisted so much on, I must inform him, that an act of parliament abolishes every anterior custom inconsistent therewith, and that no prescription can run against an act of parliament; therefore no copyholder can by prescription or immemorial custom have acquired a right to vote for knights of the shire in any county in England, no more than a man can by custom or prescription acquire a right to rob upon the highway. Nay, the being resident in the county, which is a qualification required by the acts of Henry the 6th, might still have been insisted on, notwithstanding the present custom, if no act had been passed since for ascertaining the qualifications of the electors and elected; but that qualification having been left out in all our late acts, those of Henry the 6th are supposed to be thereby in so far repealed.

Every gentleman must now, I think, see, Sir, that there is a material difference between the question stated by the hon. gentleman who spoke last, and the question which I have shewn to be the true and only one now under our consideration. Whether it would be to the advantage or disadvantage of our constitution to admit all, or any sort of copyholders, to vote at county elections, is a question which we neither can nor ought to determine by a vote, with a design that such vote should establish for the future any new practice; because such a vote, with such a design, would be a sort of assuming a sole legislative power. I say, with such a design, because we might determine even that question by a vote, if we did it only by way of enforcing the laws in being, or by way of a foundation for bringing in a new Bill. But when the question is only, whether according to the laws now in being any copyholder can have a right by virtue of his copyhold, to vote at any election for knights of the shire; we may determine such a question by a vote, because we then act in our proper sphere as the sole judges and interpreters of all the laws in being, so far as they relate to the elections of the members of this House; and if this point has been rendered doubtful by any late practice, we ought to determine it as soon as possible, in order to prevent vexation, trouble and expence to gentlemen, who may hereafter aspire to the honour of serving their country in parliament; for no gentleman can pretend to say, that a new general election may not ensue before we have an opportunity to meet here again.

Now, Sir, from this very debate it is apparent, that the point is now become doubtful. I shall most readily grant, and from what I have said it will appear, that

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there is no solid foundation for the doubt; but what was publicly done by the high-sheriff at the last election for Oxfordshire, what has not been done by this House in relation to that election, and what has been said by several gentlemen in this debate, will make it very doubtful without doors, whether copyholders, whose estates have been assessed at 40*s.* a year, or above, have not a right to vote for knights of the shire; and this doubt will occasion great confusion, if any county election should come on before it be removed. It is notoriously known over the whole kingdom, that at the late election for Oxfordshire, the sheriff admitted a great number of copyholders to vote at that election, and to take the oath appointed by law to be taken by freeholders, though most, if not all of them declared, that the estate for which they claimed to vote was a copyhold estate. It does not appear by any resolution of this House, that the votes of these copyholders were rejected, or that the sheriff underwent any censure for admitting them: on the contrary it appears, that we expressly refused to put him to the trouble of attending, and that we determined the election in favour of those candidates for whom all these copyholders voted. Will not most people from thence conclude, that we approved of the conduct of the sheriff; and that we allowed the votes of all these copyholders as good votes for those candidates in favour of whom we determined? The hon. gentleman has told us, that they had a majority of legal freeholders: does that appear from any part of our proceedings? How then can it be known by the people without doors? If the hon. gentleman should tell them so, there are many who will tell them quite otherwise. In this contrariety every man will believe what most suits with his own interest: from hence all the copyholders in the kingdom will conclude, that their votes will be allowed, if they take care to give them of the right side; and every sheriff will conclude, that in whatever he does he will be supported, if he takes care to make a right return. From such conclusions we may judge how the majority of the copyholders will vote at the next general election, and what sort of members we shall have returned.

This, Sir, may be of the most dangerous consequence to our constitution, nor can our apprehension of this danger be in the least abated by telling us, that the sheriffs will still be under the controul of this House. What, controuled by a House of their own chusing? Gentlemen seem to forget, that the members returned by the sheriffs are the sitting members; and if the majority be such as were falsely returned, or of such as are friends to them, will not they support one another as well as the sheriffs that returned them? This is the danger our constitution now lies exposed to, by the doubt that has been raised with regard to the right copyholders may have to vote for knights of the shire; and we have no way to guard against this danger, but by removing this doubt as soon as possible. I have shewn, that no copyholder, as such, can have any such right either by law or custom: surely, we can do them no injustice by taking from them the pretence to a right which they never had, nor can have without a new law for the purpose. I have shewn, that we are the proper judges, and the only proper judges of the question now before us, as we are not thereby to make a new law, but to declare what is law: and I have now shewn, that we must do this as soon as possible, if we have any regard to justice, or to the security of our constitution. To talk now of the right that copyholders ought to have, or of the advantage our constitution might reap by giving them that right, is quite foreign to the purpose. But even upon this subject I must observe that all copyholders may be made liable to great vexation and expence, if they disoblige their lord; because they are amenable to their lord's customary court, where he or his steward is the sole judge; therefore no copyholder, let him be ever so rich, can be said to be equally independent with a freeholder; and if we were to pass a new law, I should for this very reason oppose its being extended to the whole riff-raff of copyholders; though I believe, this would be pushed as much as possible by those who aim at undermining our constitution; because where they cannot confine an election to a very small number whom they may bribe by promises of posts or pensions, they will always be for extending it to as many low people as possible, whom they may bribe by trifles of ready money, under the name of travelling charges. Therefore the hon. gentleman can have no reason to be surprised at our being against confining an election to a few venal magistrates, or extending it to a multitude of necessitous beggars. They equally serve the purposes of arbitrary power; and it requires no deep penetration

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to see that they do. For which reason, if some of our late ministers entertained any such design, and took either of these methods for carrying it into execution, we are not from thence to conclude, that they were deep designing men; for I will freely allow, that no such thing appeared from any part of their conduct; they never seemed to think of any thing but the expedient for the day; and by such shallow counsels it is, that this nation has been brought into such a wretched condition that we shall be inevitably ruined if we continue in peace, and shall run a very great risk of being so if we engage in war.

From such a wretched condition, Sir, we can no way extricate ourselves but by a free and independent parliament; and this, in my opinion, it is impossible for us to have, unless upon this occasion we give an affirmative to the previous question, and a negative to the question upon the motion made by my hon. friend.

The previous question being put was negatived, on a division, by 242 against 107. It was then moved, "That the right hon. Philip Wenman, lord viscount Wenman, in the kingdom of Ireland, is duly elected a knight of the shire to serve in this present parliament for the county of Oxford; whereupon the previous question was moved for by the other side, which, after a long debate, was carried in the affirmative, by 233 to 105, and the question being then put upon the motion, it was carried in the negative; after which the lord Parker was voted duly elected, sir James Dashwood not duly elected, and sir Edward Turner duly elected for the said county. Whereupon the clerk of the crown was ordered, and he accordingly amended the return, by erasing the names of lord Wenman and sir James Dashwood.

*Debate in the Commons on the Bristol Nightly-Watch Bill.**] Jan. 15. A Petition of the mayor, burgesses, and commonalty of the city of Bristol, under their common seal, was presented to the House; setting forth, "That, by the laws then in force, there was no effectual provision for establishing, maintaining, and well governing a Nightly Watch within the said city; and therefore praying, that leave might be given to bring in a Bill for the purposes aforesaid, or that the petitioners might have such other relief in the premisses, as to the House should seem meet." Which Petition was referred to the consideration of a committee; and on the 17th, Mr. Nugent reported from the committee, that they had examined the matter of the said petition, and had directed him to report the same, as it appeared to them, to the House; and the report being then read, it was ordered, that leave be given to bring in a Bill for establishing, maintaining, and well governing a Nightly Watch within the city of Bristol. In the progress of this Bill through the House the following Debate took place upon the question, Whether the power of establishing, maintaining and governing this Nightly Watch, should be lodged in the magistrates, or in the inhabitants, that is to say, in trustees chosen by the inhabitants of Bristol.

Sir *John Philipps:*

Sir; as Bristol is such a large, opulent, and flourishing city, it is highly reasonable, and even necessary, that they should have a Nightly Watch, therefore, I believe, no gentleman would think of opposing a proper Bill for this purpose. Indeed, I am surprized, that they have not long since had such a Bill passed into a law; and, I believe, the chief cause of this neglect, has been the contention that has been introduced by the unfortunate and singular constitution of the government of that city, between the magistrates and inhabitants; which contention must always subsist whilst the constitution of their government remains the same, as is evident from the Petitions now lying upon our table. In all, I believe, or at least in most of the cities of this kingdom, the inhabitants or freemen have the privilege of chusing their own magistrates, and may change or turn out most of them at the end of every year, if by their conduct they have rendered themselves disagreeable to their fellow-citizens: nay, even those magistrates that are chosen for life, such as the aldermen of the city of London, may be made very uneasy, and very insignificant, by their fellow-citizens, if they behave in an insolent or oppressive manner, or become suspected of being ready to sacrifice the liberties of their country, or the rights of their fellow-citizens, to the ambitious or arbitrary designs of a prime minister; of which we have several recent examples, especially in the city of London.

This power, Sir, which the governed

* From the London Magazine.

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have over their governors, naturally and necessarily produces a continual good correspondence between them; for it prevents any unreasonable or groundless jealousies arising in the breasts of the former, and it obliges the latter to behave not only in a just but in a modest and complaisant manner, in the exercise of that power with which they are intrusted. But by the unfortunate and singular form of government established in the city of Bristol, the magistrates are quite independent of their fellow-citizens, either as to their being chosen into office, or as to their continuance in power after being chosen. To illustrate this, I must beg leave to give a short account of their present form of government; and shall first observe, that the chief power is lodged in a court, which consists of a mayor, 12 aldermen, and 30 other common-council men, in all 43 persons. The mayor is chosen annually, not by the citizens as in other corporations, but by the majority of the other members of this court, all of whom, after being once chosen, continue for life, or during their good behaviour. When any one of the aldermen dies, or is removed, a new alderman is chosen from among the common-council-men, not by the citizens of any ward or precinct, but by the majority of the other aldermen; and when any one of the thirty common-council men dies, a new common-council man is chosen, not by the citizens of any ward or precinct, but by the majority of the said court, that is to say, by the majority of the mayor, aldermen, and common-council men. In this court is lodged the power to make by-laws for the good government of the city, and to enforce those laws by pains, punishments, penalties, fines, and amercíaments; and the mayor and aldermen are not only justices of the peace, but of oyer and terminer and general gaol delivery, within the said city. Then with regard to their officers, the recorder is always to be an alderman, is chosen by the majority of the said court of common-council, and continues during life, or good behaviour; and their two coroners, their town-clerk, and the steward of their sheriffs-court, are all chosen in the same manner, and for the same time: their two sheriffs indeed are chosen annually, but in the choice of them the citizens have nothing to do, for they are chosen by the court of common-council only; so that this court has not only the power of chusing all their magistrates and officers, but by some of their old charters it seems likewise to have a power of removing any one of them, for what the majority of it may think proper to call a misbehaviour in office; for with respect to the aldermen, the power of removing or deposing an alderman is expressly granted to the mayor and aldermen by some of their old charters; and as all their old jurisdictions, powers, and privileges, are confirmed by queen Anne's charter, this power, and likewise the exclusive jurisdiction of the court of common-council seems to be confirmed.

From this account of the form of government established in the city of Bristol, it is evident, Sir, that the citizens have nothing to do with the government of their city, nor have their magistrates the least dependance upon them, either for their acquisition of power, or for their continuance in power. On the contrary, the government of that city must always necessarily continue to be a sort of oligarchy; for when two or three men have once got the leading of the court of common-council, they may easily, and they certainly will take care, that no new man shall be brought into it, who is not slavishly attached to them: and if they should ever find themselves mistaken as to any such new member, they will take methods to get him removed, or to make him so uneasy, that he shall be glad to resign. How this oligarchical form of government came to be introduced into the city of Bristol, does not appear from any history of that city; for from their old charters it is plain, that this was not originally their form of government. In a charter granted by Hen. 3, the burgesses of Bristol and their heirs, burgesses of the same town, are impowered to chuse a coroner: in a charter granted by Edw. 1, it is said, that as often as the burgesses (meaning the citizens) shall chuse a mayor, they shall present him for admission before the constable of the castle of Bristol, instead of presenting him as formerly at the Exchequer: and in the famous charter granted by Edw. 3, the burgesses and commonalty were every year to chuse three persons, one of whom the crown was to appoint as sheriff for the year ensuing; and the mayor and sheriff, with the consent of the commonalty, were to chuse 40 of the better sort of men in the town, who with the mayor and sheriff, were to have the chief government.

In short, Sir, from all the old charters of this city it appears, that all the magis-

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trates and chief officers were originally chosen by the citizens in general; for though their aldermen from their first institution in the reign of Henry 7, were to be chosen by the mayor and common-council, yet by the same charter it is directed, that the members of the common-council shall be chosen with the assent of the commonalty of the said town, and consequently every free citizen had originally a share, by means of those I may call their representatives, in the choice even of their aldermen; therefore I must conclude, that if ever the mayor, aldermen, and common-council of the city of Bristol, assumed such a sole and absolute power as they now exercise over their fellow-citizens, before the 36th year of Charles 2, when that famous new charter was granted to them, upon their having resigned their former: I say, if they ever assumed such a power before that time, it was an usurpation upon the rights and privileges of their fellow-citizens, without any colour of law, or the authority of any charter.

But, Sir, when men have once got possession of power, however illegally obtained, from the example of Bristol we may see how loth they are to part with it, how apt they are to endeavour to increase it; for the magistrates of Bristol having, by this anti-constitutional charter granted them by Charles 2, obtained the pretence of a right to continue themselves and posterity for ever in the magistracy of that city, unless prevented by the interposition of the crown, for which a power was in that charter reserved to the crown, and being well assured that this power would never be exercised by the crown after the Revolution, they continued to act in pursuance of this charter, until the 11th of queen Anne, and in virtue thereof to exclude their fellow-citizens from any share in the government of the said city. But in that year, I suppose, they were threatened with some sort of prosecution for having acted thus illegally, therefore they applied for a new charter, and by that charter they took care to get all the powers granted them by king Charles the 2nd's charter confirmed, together with a release of the power of interposition reserved by the former charter to the crown, and a pardon to the magistrates and officers for having executed their respective offices contrary to that charter, as also some new additional powers never before granted.

Nay, what is still more, Sir, even during the time that they were acting in a manner for which they afterwards thought it necessary to have a pardon, they applied to parliament, and obtained a very great increase of their power; for in the 11th and 12th of king William, they applied to parliament, and obtained an act, entitled, "An Act for the better preserving the navigation of the rivers Avon and Frome, and for cleansing, paving, and enlightening the streets of the city of Bristol;" by which act the power of the magistrates of Bristol, especially the mayor and aldermen, who are the only justices of peace within the city, was very considerably increased in many respects, as every gentleman who considers what power the justices of peace have in their respective precincts, may easily imagine; and every such gentleman must see, how dangerous it would be to the people of any county, to give the justices of peace the sole power of chusing and removing one another, which is now really the case with regard to the city and county of Bristol; therefore in that city it may be supposed, that no man can expect much relief by appealing from any two of the justices of peace to the next quarter sessions.

Having thus, Sir, explained the present form of government in the city of Bristol, and the means by which it was established, I think myself obliged to take notice, that I do not do so with any intention to reflect upon the conduct of the present or any late magistrates of that city; for I must say, that considering the extraordinary powers they are invested with, and their absolute independency for their continuance in that power, not only upon their fellow-citizens, but even upon the crown itself, they have hitherto exercised that power with great justice and moderation. My objection therefore to the Bill now before us, does not arise from any misconduct in the present or late magistrates of Bristol, nor from my thinking that a nightly watch is not necessary for that city, or that any powers are intended by this Bill but what must be lodged somewhere or other. But, Sir, the general nature of mankind makes me think it dangerous to trust too much uncontroulable power in the hands of any man, or any set of men whatever. Insolence in power too often follows close upon the heels of an increase of power: a man may be moderate in the exercise of a little power, and yet may become tyrannical if you make but a very small addition. For this reason, whilst the form of government in Bristol continues to be the same it

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is at present; whilst the magistrates and chief officers continue to be so independent of their fellow-citizens as they now are, I shall always be against investing them with any new powers, or extending any of those which they are already possessed of.

This, Sir, shall with me be a general rule with respect to every new power that may hereafter be thought necessary for the good government of that city; but with respect to the powers to be granted by this Bill, I must conclude not only from the nature of things, but from several former Bills of the same nature, that they may be more properly and more conveniently trusted in the hands of the inhabitants, or trustees chosen by them, than in any other hands whatsoever. The inhabitants are certainly most interested in the preservation of themselves and those that come to sojourn in their city, and it is they who must support the expence: their own security will oblige them to appoint a sufficient number of watchmen, and to chuse the most proper persons for the purpose, and their own interest will prevent their appointing a greater number of watchmen than may be necessary, or allowing them higher wages than the service may deserve; therefore from the nature of things the inhabitants are the only proper persons in whose hands the powers intended to be granted by this Bill should be ultimately lodged; and that they have always been thought so by this House appears from the several acts that have been passed for establishing and regulating a nightly watch in several of the parishes of Westminster, in every one of which the powers necessary for the purpose are all ultimately lodged in the inhabitants of the respective parishes.

Therefore, I hope, Sir that the present magistrates of Bristol, will either consent to the restoring the ancient form of government in that city, and bringing it as near as possible to the model now established in the city of London, which would greatly add to their own characters, and very much, I am sure, to the future peace and quiet of their city; or otherwise, I hope, they will excuse me for proposing, that this Bill should be so altered as to lodge the power of establishing, maintaining, and well governing a nightly watch within that city, in a certain number of trustees to be annually chosen by the vestries, or by the inhabitants of each respective parish.

Mr. *Robert Nugent*:

Sir; if the House should think fit to adopt the proposal made by the hon. gentleman, I think it is evident, that the Bill now before us must be withdrawn, and a new Bill ordered to be brought in; for it would be impossible to alter this Bill in the committee so as to make it correspond with what he has proposed; and even if this were possible, I do not think it would be right in us to do so, because a Bill so much altered would really be a new Bill, which could not be said to have gone through all the forms so wisely required by our constitution for the enacting of any new law, nor would the people without doors, who might justly think themselves interested, have an opportunity to explain to the House either their interests or their objections.

This, Sir, is one great objection which I have to what the hon. gentleman has been pleased to propose; but I have a much more material objection, which is, that I think it would be of the most pernicious consequence to the city of Bristol: It would be setting up an *imperium in imperio*, and this can never tend to the peace, quiet, or prosperity of any country or city. I shall readily admit, Sir, that the form of government in Bristol has, like that of all other cities and boroughs, undergone many alterations since it was first erected into a free borough: I say a free borough, for it has been for so many ages in that state, that I doubt if we have any authentic record or history of its first erection; whereas we know, that it was never erected into a city until the 34th of Henry 8, and it is certain, that ever since it has had any aldermen, which was not, I think, till the reign of Henry 7, the power of chusing a new alderman in the room of one dead, or removed, has been lodged solely in the aldermen. But whatever was anciently the form of government in Bristol, whatever alterations it has undergone, those alterations are, in my opinion, an argument in favour of the present form, because I must suppose, that every alteration was owing to some inconvenience that had been felt in the old form; and as the present form has continued ever since the Revolution, without any complaint from the inhabitants, I must suppose it to be the best that has ever yet been thought of; for if the citizens had ever found themselves oppressed by their magistrates, or had ever experienced any inconvenience

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in their present form of government, they would certainly have petitioned either the crown or the parliament, for some new regulation.

But so far otherwise, Sir, that we have never heard of any general complaint among the citizens of Bristol, or any general desire to alter their form of government. On the contrary, we have now before us a petition from the most respectable body of men in that city, next to the magistrates, approving of the powers granted to the magistrates of that city by the act of the 11th and 12th of king William, and of the conduct of the magistrates in the exercise of those powers; and giving it as their opinion, that the magistrates are the most proper persons to be invested with power to support and regulate a nightly watch. From hence, I think, we have great reason to suppose, that the majority of the inhabitants of Bristol approve not only of their present form of government, but also of the conduct of their present magistrates; and indeed, as I have the honour to be personally acquainted with all, or most of them, I cannot wonder at their meeting with such a general approbation; for there is not, I believe, a city in the kingdom, whose magistrates are men of better sense, of more moderation or justice in the exercise of power, or of more disinterested concern for the peace and prosperity of the city they have under their care. So much I can say from my own knowledge of the present magistrates of Bristol; and from the general concurrence they met with when they applied for an extension of their power in the 11th and 12th of king William, and when they solicited a new charter in the 11th of queen Anne, and in short from the present flourishing condition of that city, I think, we have the strongest reason for supposing, that the conduct of the magistrates of that city has been always the same, and that as often as they had occasion to chuse a new magistrate or officer, in the room of one deceased or removed, they have always chosen as fit a person for that purpose, as was to be found in their city.

From the conduct therefore, Sir, of the present or any former set of magistrates of Bristol, there can be no reason drawn for altering the form of government of that city, or for refusing to lodge in the magistracy any new powers that may be found necessary for the good government thereof. Unquiet minds will always be finding fault with the best form of government that ever was, or ever can be contrived by human wisdom; and however necessary some sort of popular elections may be for keeping the exercise of power within due bounds, and for preserving the liberties of the people; yet it is certain, that they are often the cause of great disturbance and contention; therefore I shall never be for introducing them in any case where experience has not shewn that they are become necessary. In the case now before us, they are so far from having appeared from experience to have become necessary, that I am convinced, they would be the forerunner of infinite confusion. Should you give the populace of Bristol a power to chuse trustees for regulating and supporting a nightly watch, you would not surely make those trustees and their watchmen absolutely independent of the magistrates. Such an independency would be altogether inconsistent with government; for the watchmen must be subordinate to, and under the immediate direction of the night-constables, and the night-constables must be subordinate to, and under the immediate direction of the justices of peace, but the only justices of peace within the liberties of Bristol are the mayor and aldermen; and should you put the trustees and their watchmen under the controul of the magistrates, the people would then cry, you had established the very thing they complained of.

Thus, I think, Sir, it must appear, that what has been proposed by the hon. gentleman, is a scheme that consists only in speculation, for it is impossible to reduce it to practice; nor can it be any way supported by the precedents here in Westminster; for in the first place, there is no proper magistracy established here in Westminster; and in the next place, there was never any general law proposed, much less enacted, for establishing a nightly watch in the city of Westminster. The acts that have been passed for establishing such a watch in some parts of it, related only to one parish, or two at most, and even in them you lodged all the powers necessary for the purpose in those who by law had the government of the parish, that is to say, in the vestry of each respective parish. Consequently no argument can be drawn from these particular parochial acts, for our doing the same thing now when we are to pass a general law for establishing a nightly watch in the city of Bristol. At least if any sort of argument can be drawn

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from these acts, it is an argument for our doing with respect to that city, what we did with respect to these respective parishes, that is, to lodge all the powers necessary for the purpose in the hands of those who have by law the government of the city.

But, Sir, there is a late act which I look on as a precedent much more proper for our direction upon the present occasion, than any of these Westminster acts: the act I mean is that which was passed in the 9th of his present majesty, for better enlightening the streets of the city of London. Surely the inhabitants of any city are as much interested in having their streets enlightened, as in having a nightly watch established, and, I believe, the former will always be the most expensive; yet the inhabitants of London did not so much as desire to have the powers necessary for this purpose lodged in their hands, or in the hands of trustees chosen by them, and the parliament thought proper to lodge the whole in the hands of the common-council, with an appeal to the court of aldermen, in case any person thought himself aggrieved by having too high a tax laid upon him for the purposes of that act.

This, Sir, is a precedent in point; and as that act has been found by experience to answer every purpose for which it was intended, without being oppressive upon any one of the citizens, we cannot do better than to follow this precedent, which if we do, we must pass this Bill as it now stands; and if it be passed into a law as it now stands, I dare say, we shall never hear of any complaints against it, from the citizens of Bristol in general, nor from any inhabitant of that city in particular.

Mr. *Richard Beckford:*

Sir; the first objection made against what is now proposed by the hon. gentleman who spoke last, will not, I hope, be allowed to be of any weight, because, if the Bill before us be so improper as to render it impossible, or inconsistent with our constitution, to amend it in the committee, we may order it to be withdrawn, and a new Bill to be brought in, which may be passed into a law before the end of this session, consequently no man, either without doors or within, can, on that account, be against what is now proposed, if he has nothing in view but the tranquillity and the happiness of the people of Bristol. I say, Sir, the tranquillity and the happiness, because I know that the tranquillity of the people of any country or city may be secured, by subjecting them to the absolute power of their rulers, and the more arbitrary the power is, the more abject slaves the people are, the more secure and the more lasting their tranquillity will be; but as yet, I believe, no gentleman in this House will dare to maintain, that such a people can be happy; for even when they have the rare good fortune to be under a set of just and wise rulers, yet the consciousness of their slavery, and the precariousness of their tenure, must render every thinking man among them uneasy; and this must invalidate every argument that can be brought in favour of the Bill now before us, from the conduct of the present or any former set of magistrates in that city. The present set of magistrates must all necessarily die off in a few years, and if we judge from the general run of mankind, we must conclude it to be most probable, that they may be succeeded by a set of selfish, rapacious, and oppressive men, who will make use of every power they are invested with for enriching their own families, and for oppressing every citizen that dares refuse to comply with any of their most unjust demands, particularly in that of voting at every election of members of parliament, for that candidate who appears with a proper recommendation from the treasury; so that for the future we shall never have in this House any representatives from the city, but from the magistrates of Bristol; and if we judge from past times, we may easily foresee what sort of representatives we shall always have from that city.

For this reason, Sir, I take the Bill now under our consideration to be inconsistent not only with the liberties of the citizens of Bristol, but with the liberties of the people of England; and for the same reason I am not at all surprized to find, that the usurpations of the magistrates of that city have been countenanced, and even authorized by our ministers, especially by those who were our ministers in the year 1710, when they obtained that charter on which their present establishment is founded; for I believe we seldom if ever had, or ever shall have a minister, who would not wish to have the government of every city and corporation in the kingdom formed upon the same model; because such a magistracy may be easily brought, and always retained, under ministerial influence; and then in order to give the crown the perpetual nomination of near four-fifths of

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this House, nothing more would be necessary than to give those magistrates such extensive powers over their respective citizens or burgesses, that the latter durst never, or at least never could successfully oppose them at any election. This, Sir, should make us cautious of bringing any corporation in the kingdom under such circumstances; for precedents are dangerous things, and those in favour of arbitrary power are always the most likely to be followed; and we know that mobs and riots at elections will never be wanting to furnish a pretence for putting other corporations into the same circumstances.

If this was not the pretence, Sir, on which the usurpations of the magistrates of Bristol were at first founded, it was certainly the pretence for authorizing and confirming those usurpations by charter, though it is as certain that it was not the true cause; for in all ages, and in all countries, princes and ministers, and all under them in power, have been enemies to popular elections; and those who have once got into power have always been not only for enlarging their power, but for continuing themselves in the possession of it, as much, and as long as they could. It is to this, Sir, that we are to ascribe that arbitrary power which the magistrates of Bristol now have of choosing one another, and of filling up all vacancies by a majority among themselves, without so much as asking the consent of their fellow-citizens, which by their original constitution they were obliged to have; and consequently, we are not with the hon. gentleman who spoke last to suppose, that any alteration in their form of government proceeded from an inconvenience felt by the citizens in the former, but from an inconvenience felt by the magistrates; for most magistrates, I believe, think it an inconvenience to owe their continuance in power to a free election of their fellow citizens, and the worse use they make of their power, the more sensible they will be of this inconvenience, the more zealous for getting rid of it.

The hon. gentleman may as well say, Sir, that the powers and privileges of this, or of the other House of Parliament, is an *imperium in imperio*, as to say, that what is now proposed would be an *imperium in imperio*, with respect to the government of the city of Bristol. It is the spirit and the beauty of our constitution to divide the exercise of power into as many channels as possible, in order to prevent its gathering into such a torrent as must bear down every thing before it; and the chief security the people have for their liberties is, that of our having no constitutional power but what is liable to be controuled by some other. This Bill is therefore absolutely inconsistent with the true spirit of our constitution: for it not only adds to the unconstitutional power lodged in the magistrates of Bristol by their present form of government, but it expressly declares this additional power to be above any controul even by the crown itself, or by the judges appointed by the crown, which is a greater power than the parliament thought fit to grant even to the lord mayor and aldermen of the city of London, by that act which the hon. gentleman was pleased to bring as a precedent for the Bill now before us: for though by that act an appeal be allowed from the common-council to the court of aldermen, yet it is not said, that their decision shall be final and conclusive, and shall not be removed by writ of Certiorari, or otherwise.

Having thus mentioned the act for enlightening the streets of London, I must beg leave to shew some of the most remarkable differences between that act and what is now proposed to be enacted with regard to the city of Bristol; and first, as to the different form of government in these two cities, I must observe, Sir, that the common-council men of London are chosen annually by the citizens in their several wards; but in Bristol they are chosen by the mayor, aldermen, and common-council, and being once chosen they are in for life: in London the lord mayor is annually chosen by the citizens, that is to say, the citizens return two to the lord mayor and aldermen, one of whom the latter must choose as lord mayor for the year ensuing; but in Bristol the citizens have nothing to do with the choice of their mayor, he being annually chosen by the then mayor, aldermen, and common-council men: in London the aldermen are all chosen by the citizens in their respective wards, and though they are chosen for life, yet if their behaviour be in any respect disagreeable, the citizens may prevent their ever arriving at the honour of being lord mayor, and may in many other respects render them very insignificant; but in Bristol their aldermen are all chosen by the mayor, aldermen, and common-council men, and let their behaviour be never so disagreeable to their fellow citizens, the latter can neither prevent their

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arriving at the honour of being mayor, nor render them any other way insignificant.

From this comparison, Sir, must not every gentleman see, that no regulation we ever made with regard to the city of London, can be a precedent for our making the very same sort of regulation with regard to the city of Bristol. But further, Sir, let us but examine carefully what was done with regard to enlightening the streets of London, and we shall plainly see the extravagance of what is proposed by this Bill to be done with regard to the city of Bristol. In the act for enlightening the streets of London, the power of appointing what number of lamps might be sufficient, of appointing where each lamp should be placed, of taxing the citizens for defraying the expence, and of apportioning the tax upon each inhabitant, was committed to the common-council; and as the common-council men of the city of London are all chosen annually by the citizens, it may properly be said that the power was ultimately lodged in the citizens themselves; yet nevertheless it was thought necessary to limit the power of the common-council in some respects, and to subject it to a controul in others; for in the first place they were limited as to the tax which they were to impose, as it was not to exceed 12*s.* on each house of 10*l.* and under 20*l.* a year rent, 14*s.* on each house of 20*l.* and under 30, 16*s.* on each house of 30*l.* and under 40, and 20*s.* on each house of 40*l.* or upwards; and as they were thus limited as to the tax, it was a limitation as to the number of lamps, because they could not set up a greater number than could be supported by this tax. Then as to the appointing the places where the lamps were to be set up, and as to the apportioning the tax upon the several inhabitants, the common-council were put under the controul of the court of aldermen; for if any one should think himself aggrieved, either by not having a sufficient number of lamps set up in the place where he lived, or by having too high a tax imposed upon him, he was in 20 days to appeal to the court of aldermen; and as even their decision was not declared to be final, the person so aggrieved might find redress by applying to the courts in Westminster-hall. Besides all this laudable caution, Sir, care was taken that the common-council should not have the power of contracting with those who were to furnish and supply the lamps, but the alderman in every ward, with the consent of his deputy and common council men, was to contract with such persons for furnishing and supplying his ward, provided such contract should be made for one year and no longer, and should not exceed such sum for each lamp, as should be directed by the common-council. And lastly it was provided, that at the end of every seven years an account of the produce of the taxes, and an account of the whole expence incurred, should be made up, and that the surplus, if any had arisen, should be applied as the common-council should direct.

Sir, when we consider what care was taken in this act to prevent its being possible for the citizens of London to be imposed on, cheated or oppressed, even by magistrates chosen annually by themselves, can we suppose it was ever looked into by those who were chiefly concerned in framing the Bill now before us? By this Bill the power of appointing a sufficient number of watchmen for the city of Bristol, the power of posting or stationing those watchmen, the power of taxing the citizens in general for defraying this expence, and the power of apportioning this tax upon the several inhabitants, is wholly lodged in the mayor and aldermen, no one of whom is chosen by the citizens, nor has any dependance upon them either for his continuance in power, or for his acquiring any office in that city he may afterwards aspire to. And what is still more extraordinary, all these new powers are lodged in these independent magistrates without any limitation or controul, consequently they may appoint what number of watchmen they please, they may station those watchmen at what places they please, they may load the citizens with what tax for this purpose they please, and they may apportion this tax upon the several citizens at what rate they please. Can we suppose that in the exercise of such arbitrary, such unlimited, and such uncontroulable powers, there will not often occur a *casus pro amico*, especially in the stationing of the watchmen, and the apportioning of the tax: we may suppose that the watchmen will be so stationed as to be of as little benefit as possible to those who are not in the good graces of the mayor and aldermen, and all such unfortunate men, we may suppose, will be rated as high as possible, especially those who live in a house they have purchased, or for a lease of which they have paid a large fine, and consequently pay no rent, or a very small

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one; for as to all such houses the tax-imposers may put what value upon them they please; and as in laying the assessments regard is to be had to the abilities of the occupier as well as to the rent, the mayor and aldermen will have an arbitrary power even as to all other sorts of houses or tenements.

I say, Sir, the mayor and aldermen; for as to that clause which seems to put the laying of the assessments into the power of the inhabitants of each ward, I look on it as a mere sugar-plum, contrived for making us swallow this bitter Bill, which the citizens of Bristol will find to be of a very purgative nature; because the magistrates will from henceforth have so much power, that it will be impossible to carry any question against them in any of the wards of that city; and as there is to be no appeal but to them in their quarter sessions, where their decision is to be final, they will first, by means of their slaves in the several wards, oppress those that disdain to be so, and then establish that oppression irreversibly in their quarter sessions; so that these assessments made by the inhabitants will, like the decrees of a corrupt senate, only serve to palliate the oppressions of the tyrants that corrupt them.

But, Sir, the most extraordinary circumstance is still behind: these independent, self-created magistrates of Bristol are not only to impose what tax they please upon their fellow citizens for the purposes of this Bill, but they alone are to have the settling and passing of all accounts, both as to the produce and the application of that produce; so that by collusion between them and their chief constables, very large sums may be raised and applied to uses very different from what are intended by this Bill. They are, indeed, limited as to the wages which they are to pay to their watchmen and night constables; but it is such a limitation as I must look on as none at all; for it will always be very easy to get both watchmen and night constables to serve at a less rate, unless they pay the full rate allowed, for other services than that of watching and warding; which I very much suspect is what is secretly intended, though I am very sure it will never be openly avowed.

When I say this, Sir, I believe every gentleman will suppose I mean those services that are to be performed at elections for members of parliament. The citizens of Bristol have still that vestige of English liberty left, of having lodged in them the privilege of choosing their own representatives in parliament, and they have sometimes made such a free use of this privilege, as to reject those candidates that were recommended to them by their magistrates. This, I believe, is what some people have a mind to prevent for the future: it cannot be directly and avowedly done, but it may be indirectly done, by lodging so much power, and so much corrupt influence, in the hands of the magistrates, as may enable them to secure a majority at every election; and it is impossible not to foresee that this Bill, if passed into a law, will contribute, I may almost say effectually, to this end. An annual revenue of 18*l.* 5*s.* is a very pretty income for a poor freeman; and a revenue of 36*l.* 10*s.* a year may be desirable even for one in better circumstances; so that the magistrates, by having the appointment and removal of 3 or 400 watchmen and night constables, will secure in their interest at least 3 or 400 dead votes at every election, besides a great number of others that may be secured by a promise of the next vacancy; from whence we may expect, and, I think, we ought to apprehend, that if this Bill be passed into a law, the magistrates of Bristol, or rather the chief minister for the time being, will always have the nomination of the two gentlemen who are to represent that city in this House.

This apprehension alone, Sir, should induce us to adopt the proposal that has been made, for lodging all the powers intended to be granted by this Bill, in the hands of trustees to be annually chosen by the citizens of Bristol; and for this the act for enlightening the streets of London may be justly pleaded as a precedent, because the common-council men may very properly be called trustees annually chosen by the citizens, and therefore were thought the most proper persons, to whom the powers intended by that act could be granted. Can there then be any reason for not trusting the powers intended to be granted by this Bill in the hands of trustees to be annually chosen by the citizens of Bristol? Surely the reason pretended by the hon. gentleman who spoke last will not be allowed to have any, the least weight. He was pleased to say, that these powers must be all put into the hands of the magistrates of Bristol, who are the only justices of peace within that city, because the watchmen must be subordinate

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to, and under the direction of the night constables, and the night constables must be subordinate to, and under the direction of the justices of peace: he might as well have said, that the appointing and regulating the nightly watch within the several parishes of Westminster, ought to have been lodged in the hands of the Westminster justices: I believe, those who were our ministers when those acts were passed, would have been glad to have got such a regulation passed into a law; but there was at that time so warm a spirit of liberty among the people, that none of their fools without doors, nor any of their friends within, durst venture to propose such an anti-constitutional regulation; and yet it must be allowed, that the night constables are as much subordinate to, and under the direction of the justices in Westminster, as the night constables are subordinate to, or under the direction of the magistrates in Bristol.

But the truth is, Sir, that the constables are no where subordinate to, or under the direction of the justices of peace: they are regularly to be chosen and appointed at the court leet; and after they are appointed, they are subject to no subordination or direction but that of the laws of their country. Indeed, as the constable has only an executive, and not a jurisdictive capacity, he must carry his prisoner before a justice of the peace, to be by him committed, bound over, or discharged, as he upon due examination shall see cause; and as he is the proper executive officer for many purposes within his precinct, he must execute every legal warrant issued to him by the justice or justices of the peace; but then he is so far from being under their direction, that he may refuse to execute their warrant if he thinks it illegal; and if he does execute an illegal warrant, he does it at his own peril.

Thus we may see, Sir, that it can be no way inconsistent with the good government of the city of Bristol, to lodge the powers intended to be granted by this Bill in the hands of trustees to be annually chosen by the citizens; but to lodge all these powers in the hands of magistrates who are so independent of their fellow citizens, and who are already possessed of such extensive and unlimited powers, will, in my opinion, be inconsistent with the liberties of the people of that city, and may become intolerably oppressive upon all such as shall dare to oppose the magistrates at any future election of representatives for that city in parliament. Therefore, if gentlemen be of opinion, that this Bill cannot be properly altered in the committee, I hope they will agree to its being withdrawn, and to a new Bill being ordered to be brought in upon the plan of what has been proposed by my hon. friend.

Lord *Barrington*:

Sir; I have often heard our constitution and liberties hooked into a debate in this House, in which I thought they had not any concern, but I believe they were never brought into any debate in which they had less concern, than they have in that now before us; for to furnish the least ground for so doing, several most extraordinary and improbable suppositions must be made; as first, that by this Bill all the citizens of Bristol are to be made slaves to their magistrates: second, that every future set of magistrates of Bristol will be slaves to the chief minister for the time being: third, that from this precedent these two effects will be produced in every city, borough, and cinque port in the kingdom: and lastly, that all this will be brought about before the people become in the least sensible of their danger.

As to the first of these suppositions, Sir, I should be glad the hon. gentlemen who are so sanguine for having the whole plan of this Bill altered, would point out to me what new powers or influence the magistrates are to acquire by the Bill as it now stands, over those citizens who neither are, nor shall desire to be night constables or watchmen. For my own part, I have perused the Bill with all possible attention, and yet can discover nothing that has the least tendency this way; for surely, the placing of a watchman or two more or less in any one street, can have no such influence upon the people who live in that street, as must subject them to a slavish dependence upon the magistrates; especially, if we consider, that every watchmen must go his round every hour, that every watchman's appointed round must on every side extend to the round of the next watchman, and that all the watchmen must be within call of one another. Now as this of stationing the watchmen is the only new power that can have any effect upon the other inhabitants, if this can produce no dangerous effect, I must conclude, that the other inhabitants will, after this Bill is passed into a law, be as free from any slavish dependance upon

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the magistrates as they were before; and if so, then the magistrates can have no commanding influence with respect to the assessing the tax upon the inhabitants of any ward within that city; but, on the contrary, those who are suspected of having any slavish dependance upon the magistrates, may very probably be assessed the highest by their neighbours in that ward.

As to the watchmen indeed, and those who may desire to be such, I shall grant that the magistrates must have a very commanding influence, and it is absolutely necessary it should be so; but it is so mean and so low an employment, that no man who does, or can pay scot and lot, will accept, much less desire it. The persons to be employed in Bristol will generally be such as are employed in London and Westminster: they will be decayed housekeepers, who would be entitled to relief from the parish, if a provision were not made for them by appointing them watchmen. Consequently, the magistrates can by this means acquire no influence over any man intitled to a vote, either for members of parliament, or for laying the assessment upon his fellow-citizens; and therefore all such as may be intitled to these valuable privileges, will remain as free and independent after this Bill is passed into a law, as ever they were at any time heretofore; from whence we must see, that the magistrates of Bristol cannot, by any of the powers to be vested in them by this Bill, gain any greater influence upon the election of their representatives in parliament than they have always had; and as the people of that city have, upon former occasions, rejected the candidates who were recommended to them by the magistrates, we may expect they will do so again, as often as the magistrates adopt the interest of the least popular candidate.

But now, Sir, supposing that the magistrates of Bristol could by means of the powers already vested in them, and that are to be vested in them by this Bill, bring a majority of the citizens under a slavish dependance upon them, yet we cannot suppose, that they will always be slaves to the minister for the time being. The magistrates of that city have always been, and always must be, men of considerable fortune, and related to some of the best families in or about the city, consequently they must have so high an interest in preserving the liberties, and promoting the happiness of their country, that no minister can offer a bait sufficient for tempting them to betray or sacrifice either the one or the other. Therefore if we should ever be so unfortunate as to have a minister so wicked as to aim at overturning the liberties, or so weak as to expose the safety of his country, we may, I think, with great confidence depend upon it, that the magistrates of Bristol will join with their fellow-citizens in rejecting with disdain every candidate that shall be recommended or patronised by such a minister. This I say we may with confidence depend on, nor does any past experience derogate in the least from this confidence; for though the magistrates of that opulent and flourishing city may not perhaps join in every popular clamour that may be raised against the conduct of an administration, yet we are not from thence to conclude, that they ever were, or ever will be, the slaves of the minister for the time being. On the contrary, it is my firm opinion, that if ever our liberties be brought into any real danger, it will proceed from our throwing too much weight into the hands of the populace. It was by this that the liberties of Rome were at last overturned; and we find that those states have the longest preserved their freedom, where the populace have always been kept under a due subordination to their superiors; and, as I think that what is now proposed has a tendency towards making the populace masters of the city of Bristol, this among many others is with me a strong argument for being against it.

Now, Sir, with regard to the third supposition which must be made, in order to shew that our liberties have any concern in the present question, I think it more improbable, or rather more impossible, than either of the former; for granting that in every corporation of the kingdom where their form of government is, or shall be put upon the same model with that of Bristol, the inhabitants must be slaves to their magistrates, and that their magistrates must be slaves to the minister for the time being; yet it would be impossible to get the government in most of our corporations put upon the same model. It could no way be done but by getting them to resign their present charters; and what difficulties the execution of such a project would meet with we may judge from what happened towards the end of the reign of king Charles 2, when I must allow that it met with surprising success;

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but what was the consequence? Sudden and fatal was the consequence to the projectors, and directly contrary to their expectation; for notwithstanding the great power which the crown thereby got over most of our cities and boroughs, which was manifested by the next successor's removing and displacing at once no less than 28 of the 43 magistrates of this very city, and appointing others in their room, yet he could not get a parliament to his mind, but on the contrary, was himself removed from the throne within less than a year after this tyrannical use of his power.

This, Sir, shews the improbability of the last supposition I have mentioned, which was that the people should be so stupid as to see such a direct attack made upon their liberties without taking the alarm, or making the least effort to defeat it. Consequently, as every one of these suppositions is not only improbable, but, I think, impossible, the liberties of the people of this nation in general cannot have the least concern in the question now before us, and I have already shewn, that the liberties of the people of Bristol in particular can be no way infringed, should this Bill as it now stands be passed into a law. The only question now before us is, whether the peace and quiet of the city of Bristol, and the security of its inhabitants, will be best preserved by our adopting the plan of the Bill now before us or by our rejecting it and adopting the plan proposed by the hon. gentleman: and this question cannot, I think, admit of any doubt. For as to the peace and quiet of the city, our adopting the plan now proposed would establish a perpetual contention and discord between the magistrates and the trustees to be chosen by the people, as well as annual disputes and animosities among the citizens in every ward about the election of these trustees. And supposing a contest should happen in any ward about the election of these trustees: supposing one party of the citizens should chuse one set of trustees, and another party should chuse another: surely you would not bring such a contested election before any of the courts in Westminster-hall, where it could not be determined before a new election would become necessary: in my opinion, you could lodge the decision of it no where but in the magistrates, and their decision you would find necessary to make final and conclusive; so that even in this case you would be obliged to lodge the supreme power in the hands of the magistrates; and indeed it can in no case be lodged any where else, as they are by the city's charter appointed for the keeping of the peace and for the ruling of the people there.

Then, Sir, with regard to the security of the inhabitants, it must in a great measure depend upon this, that every constable and watchman shall not only diligently perform his duty, but take care not to make an improper use of the power with which he is entrusted. For both these purposes the terror of being removed will not of itself alone be sufficient. They must be punished if they commit any trespass or unjust assault in the execution of their office; but they can be punished by none but the magistrates, who are the only justices of the peace within that city; and can we suppose that they will be so punctual in observing the orders and regulations of those who can only remove them, as they will be in observing the orders and regulations of those who can punish as well as remove them. To this I must add, that there is such a connection between the duty of the constables and that of the watchmen, that it seems absolutely necessary they should be both nominated and regulated by the same sort of magistrates; and though by the common law the constables are to be appointed at the court leet, yet we know, that they are now generally appointed by the justices of the peace in their several divisions, or by the inhabitants in their several parishes, and in cities and towns corporate they are usually appointed by the magistrates in their courts, which come in place of the court leet; from whence we may easily see the reason, why in the several parishes of Westminster where watchmen have been established by act of parliament, it was enacted, that those watchmen should be appointed and regulated by the vestry of each respective parish.

And from hence, Sir, it is likewise evident, that in the city of Bristol the power of appointing and regulating the watchmen in every part within the liberties of that city, ought to be lodged in the magistrates, unless some very particular reason could be assigned for lodging it some where else: for as to that of their being paid by a tax raised upon the citizens, it can be no reason at all. We might as well say, that all the officers of our revenue, nay, and all the officers of our navy and army ought to be appointed and regulated by the people; for they are all paid by taxes raised upon the people.

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To conclude, Sir, as I can see no reason for any material alteration in the Bill before us; as I think that every such alteration would render it worse, and might defeat the very end for which it is intended, I shall be for agreeing to it as it now stands.

Mr. *William Beckford:*

Sir; whatever the noble lord may think of the suppositions which he was pleased to state to the House, there is not one of them so improbable as he would endeavour to make us believe; and this every gentleman must be convinced of who considers what is properly meant by public or constitutional slavery, which does not consist in any particular form of government, but may be the attendant of that sort of government which, from its outward form, seems to be the most free; for slavery may be as absolutely established, and tyranny more cruelly exercised, under a republican form of government, than ever it was under the most despotic; and this will always be the case when the magistracy is invested with too great a power to reward those who blindly submit to their dictates, or to make those suffer who upon any occasion refuse to do so; because by means of this power they may make themselves masters of every check that can be contrived by the wit of man, for restraining their power, or preventing their making a tyrannical use of it. If this had been duly attended to ever since the Revolution, the raising of our public revenue, and the disposal of the infinite number of lucrative offices and employments since created, would certainly have been put upon a footing very different from what they are on at present.

But, Sir, I shall leave this general consideration, and apply what I have said only to the affair now before us. Let us, then, consider what powers the magistrates of Bristol are already possessed of. In the first place, they are the only judges of all disputes between citizen and citizen, and of all crimes committed, or pretended to have been committed within the said city; and consequently, they have of course the nomination of all officers belonging to the said courts, many of whom must in such a populous and rich city have from thence a very lucrative employment. In the next, they are the only justices of the peace within their city, and as such are invested with all the powers with which justices of the peace are invested in any other country, particularly that of licensing alehouses, and of punishing or winking at numberless little offences which tradesmen are often, and indeed must often be guilty of. In the third place, they have the absolute disposal of the whole of the city revenue, and of all fines and amerciaments that are levied within their city. And in the fourth, they are now possessed of very extensive powers which were vested in them by the before-mentioned act of the 11th and 12th of king William, and which by a partial execution may be made very oppressive upon some, and at the same time very easy to others. From all these I leave it to gentlemen to judge, whether the magistrates of Bristol are not already possessed of a very considerable power to reward those who blindly submit to their dictates, and to expose every man who refuses to do so to very great inconveniences; and this power will, I am convinced, be thought already too great by every gentleman who considers, that the magistrates of that city are all chosen by one another, and may consequently very easily enter into a combination to reward only such as submit to be their slaves, and to stretch their power to the utmost for oppressing those who disdain to be so.

What then must we think, Sir, will be the consequence, if to the powers they are already possessed of should be added the extravagant powers that are to be vested solely in them by this Bill? I say, Sir, the extravagant powers; for I was really surprised to hear the noble lord desire such powers to be pointed out to him. Does he think that a power to raise 4 or 5,000*l.* yearly upon the citizens of Bristol, and to dispose of that yearly revenue to whomsoever they think fit, is no power, or that it is a power which can have no effect but upon such as are, or design to be candidates for the post of watchman? His lordship's great fortune, and the lucrative post he now enjoys, may make him think a revenue of 18*l.* a year such a trifle as not to be worth asking; but I can tell him, that there is many a good housekeeper in Bristol who would be glad to have such a revenue settled upon a poor brother perhaps, or upon some more distant relation; and every such housekeeper will take care not to offend the magistrates by his way of voting at the wardmote to be held in pursuance of this Bill, or by his way of voting at any future election for members of parliament.

But suppose, Sir, that this power of

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raising and disposing of 4 or 5,000*l.* a year could have no influence except upon such as are watchmen, or such as are resolved to stand candidate for being a watchman upon the first vacancy: yet even this will have a great effect in favour of the magistrates at all future wardmotes, and all future elections in the city of Bristol; for it is so far from being true, that no man will be appointed a watchman but such a one as would otherwise be entitled to relief from his parish: I say, this is so far from being true, that by the express words of the Bill now before us, the magistrates are directed to chuse able-bodied men to be watchmen, and no able-bodied man can be entitled to any relief from his parish. Nay, I am persuaded, that few or none will be appointed watchmen, but such as may have a right to vote at every wardmote to be held in pursuance of this act, and at every future election of members of parliament; and as in such a number of watchmen as must be appointed for the city of Bristol, several vacancies must happen every year, not only all the watchmen, but all such as may be made to entertain hopes of being watchmen, will be so many dead votes under the direction of the magistrates, in every case where they have any occasion to ask the votes of their fellow-citizens. By this means they will have the absolute direction of every wardmote to be held in pursuance of this Bill, and consequently an absolute and uncontroulable power of assessing every citizen at what rate they please; for they are not confined to any particular sum, as the magistrates of London are; but, on the contrary, by giving them a power to assess every man according to his ability, you render their power quite arbitrary; which, if they cannot exercise in the wardmote, they may, and certainly will, exercise upon an appeal. This will add so much to their power of directing all future elections of members of parliament for that city, as will soon put an end to all opposition; for as a prudent swimmer allows himself to be carried along with the current, when he finds he cannot stem the stream, so a wise man will avoid struggling against a power which he finds he cannot hope to oppose with success; and I wish this may not come to be the case in an assembly of much greater importance, than any that was ever held for the city of Bristol.

I believe it will now appear, Sir, that with respect to public constitutional slavery, so far as relates to the city of Bristol, the supposition is highly probable, that by this Bill, if passed into a law, the citizens of that city will be made slaves to their magistrates; for under an aristocracy or oligarchy the people may be as abject slaves as under the most absolute monarch, and the tyranny may be as cruel. This, Sir, the citizens of London are happily guarded against by the wise form of government established in their city. They have no occasion to be jealous of any power that can be lodged in their magistrates, because they are all chosen by themselves, and most of them liable to be removed at the end of the year, if they render themselves obnoxious to their fellow citizens. Even their aldermen, though chosen for life, must take care to preserve the good will of those who chose them, otherwise they may not only prevent their arriving at the honour of being lord mayor, but also they may render any alderman very insignificant, even in his own ward, by choosing such common-council men as will not be any way under his influence; and by an appeal from the sentence or judgment of any inferior jurisdiction in the city of London to the lord mayor and aldermen, or to the quarter sessions, redress may be expected if the appeal be well founded, because the aldermen, being chosen by the citizens in their respective wards, cannot enter into any combination for supporting the unjust decrees of one another, which they might easily, and probably would do, if they could exclude from their court every man who would not previously engage to support that combination.

Now, Sir, with regard to the corrupt dependance which the magistrates of Bristol might be brought under by the minister for the time being, no man can think such an event improbable, who considers what is now the case with respect to many of our little boroughs, or who considers what has been the case for many years even of that city itself; for as often as there has been any contest between a candidate upon the court interest, and a candidate upon the country interest, the magistrates have generally appeared unanimously upon the side of the former, we all know upon what side they appeared at the very last election; and however much some gentlemen may please to extol the conduct of the present magistrates, I must observe, that their conduct, as magistrates, upon that occasion was neither just nor impartial; for they took away the licence

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from several alehouse-keepers for refusing to vote according to their directions. To this I must add, Sir, that as the magistrates of Bristol have never hitherto been able to acquire the absolute direction of the election of members for that city, it has not as yet been much worth the while of a minister to endeavour to keep them under a corrupt dependance; but when they have acquired such a direction, which by this Bill, if passed into a law, I think they will do, it will be worth every minister's while to attempt it; and considering the large sums of money, and the many lucrative places, our ministers have now at their disposal, we have great reason to suppose, that every future minister will not only attempt it, but attempt it with success: nor can this reason be in the least invalidated, should it be granted, that the magistracy of Bristol must always consist of gentlemen of the best fortunes and families in that city or neighbourhood; for history will inform us, that public constitutional slavery was never established in any country, without the concurrence of many of the best and richest families in the country.

As to the third supposition, Sir, which the noble lord was pleased to state to the House, I was surprized to hear him say, that the form of government in all our other cities and boroughs could not be put upon the same model with that of Bristol, unless they could all be prevailed on to resign their present charters. Does not every one know, that one general act of parliament would be sufficient for this purpose, without any such resignation? We all know, that a very material alteration was made some years ago by act of parliament in the form of government of the city of London, without so much as asking that city to resign their present charter. When I say this, every gentleman must suppose, I mean the famous act of the 11th of his late majesty for regulating elections within the city of London; by which it was enacted, that no act, order, or ordinance whatsoever, should be made or passed in the common-council, without the assent of the mayor and aldermen present, or the major part of them, nor without the assent of the commons present, or the major part of them. Was not this a very material alteration of the form of government of the city of London, yet this was done by act of parliament, without desiring the city of London to surrender their charter, or to give their consent to the bringing in of that bill, or to the passing of that act? This shews what may be done, and, I believe, no gentleman will take upon him to say what may not be done, by act of parliament. What was the reason why the court in king Charles the 2nd's reign took the trouble to bring Quo Warrantos, or to prevail with our corporations to surrender their charters? Was it not because they knew that the parliament would not concur in their design, or pass any proper act for carrying it into execution? If they could have got an act of parliament empowering the king to resume the charters of all our corporations, and to grant them such new charters as he might think convenient, can we imagine that the ministers of those days would have been at the trouble to bring any Quo Warrantos, or to solicit any surrenders.

It is certain, I think, Sir, that they would not; but whether they would or no, the success they met with, and the quiet submission of the people to the execution of such an open and barefaced design against their liberties and privileges, is a proof, that very dangerous designs may be carried into execution, without raising any general alarm among the people; for the people submitted quietly to this for several years: nay, even the parliament which met at the beginning of the ensuing reign submitted to it; for they continued sitting a great many days without taking any notice of this anti-constitutional project, or of any of those who were concerned either in advising, or in carrying it into execution; nor did any of our corporations apply to parliament for having their ancient privileges restored. So ready were both the parliament and people to submit to the yoke; and if that king had not very soon discovered, nay, I may say, declared his resolution to subvert our religion as well as our liberties, he might, by a tolerable management of the power he had got into his hands over our cities and boroughs, have established the absolute power of the crown, under the appearance of our ancient constitution, that is to say, an absolute power supported by a corrupt parliament, and enforced by a mercenary army; but though the parliament, the people, and the army, seemed willing enough to have become Protestant slaves, they were not willing to become Popish slaves, and this it was alone that made way for the Revolution.

I have now, I hope, shewn, Sir, that all the suppositions which the noble lord was

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pleased to state to the House as impossible, or at least improbable: I say, I have shewn, that every one of them is not only possible, but highly probable; and therefore I hope his lordship will no longer insist upon it, that the preservation of our constitution and liberties has no concern in the present debate. I am as much as his lordship for preserving the peace and quiet of the people of Bristol; but I shall never be for preserving their peace and quiet at the expence of their liberties, and much less at the risk of endangering the liberties of the people of this kingdom in general. I believe it will be granted, that the peace and quiet of the people of every city and county of the kingdom would be more uniformly preserved, if there were no such thing as popular elections: such elections, we know, are often attended with great disturbance, and sometimes with dangerous tumults and riots; but this, I hope, will never in this country be adopted as a good argument for depriving the people of any share in the government of their native country. It is an argument which we should most cautiously guard against; because it has always been the argument for establishing an absolute monarchy, or an absolute aristocracy; and if ever any such design should be set on foot in this country, this will be the argument for putting the government of every city and borough in the kingdom upon the same model with that of Bristol, which argument will be enforced by observing and extolling the constant and profound peace and quiet enjoyed for so many years by the people of Bristol.

Then, Sir, as to the security of the people of Bristol, they may, it is true, be protected against thieves and pickpockets by a number of honest and able-bodied watchmen; but we have heard of that city's being endangered by an insurrection of colliers. Against such a danger, I am sure, it could not be protected by watchmen: it must always be protected by the citizens themselves: could we expect that a parcel of slavish minded citizens would have spirit enough to protect their city against any foreign danger? Therefore, in order to preserve a spirit of freedom and courage, which always go hand in hand amongst the citizens of Bristol, I shall be for giving them the nomination of their watchmen, as well as charging them with the expence of maintaining their watchmen; and if a proper bill should be brought in for this purpose, it will be very easy to put the election of trustees upon such a footing as to prevent any dispute, or to make every such dispute cognizable by the other trustees; for it cannot be supposed, that in any one year the election of trustees will be disputed in every parish, or every ward, within that city; and of every such dispute the other trustees would certainly be the most proper judges, as we are in this House the most proper judges of all disputed elections: by this means the magistrates will have nothing to do with the appointment or government of the watchmen, which will prevent any dispute between them and the trustees; and when a watchman is brought before a magistrate for a breach of the peace in the execution of his office, we may expect that he will judge more impartially, and punish more severely, than when he has himself the appointment of such watchmen. As on the other hand, the trustees, who are chosen by the people, will be more ready to remove a watchman, upon the complaint of any citizen for neglect of duty, than we can suppose a magistrate will be, who has no dependance upon the citizens.

From all which I must conclude, Sir, that if we have any true regard for the liberties and security of the people of this kingdom in general, or for the liberties and security of the people of Bristol in particular, we must order this Bill to be withdrawn, and a new Bill to be brought in for lodging the power of establishing, maintaining, and well governing a Nightly Watch within that city in the citizens themselves.

Mr. *William Pitt*:

Sir; if the constitution or form of government of this kingdom in general be wisely contrived for the preservation of public liberty, and for preventing the introduction or establishment of arbitrary power, then when two different sorts of regulations are proposed for the government of any particular city, the only right way of judging which is best, is to examine which is most consonant to our constitution in general. Now, Sir, if according to this rule we examine the regulation proposed to be established by the Bill now before us, and compare it with the regulation proposed by the hon. gentleman at the beginning of this debate, I believe, it will very plainly appear, that the former is most consonant to our constitution in general; for the difference between the

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two is plainly this, that by the former it is proposed to lodge the executive power, so far as relates to the Nightly Watch, in the magistracy of Bristol, whereas by the latter it is proposed to lodge it in the populace of that city; and every one knows, that one of the most essential rules of our constitution, and one that has the most contributed towards the preserving of public liberty, is that of having the executive power ultimately lodged in the crown, that is to say, in ministers, magistrates, or officers nominated and appointed by the crown, or in some cases chosen by the people, in their several districts, by virtue of a power from the crown. This, I say, Sir, has contributed the most towards the preservation of our form of government, which has now lasted much longer than any limited form of government that was ever established, from whence alone the wisdom of it is apparent, but becomes much more so, when we consider the fate of all the old commonwealths we read of in history; for all of them were undone by trusting too much of the executive power in the hands of the populace. The people in every country are always extravagant in their love as well as their hatred; and when they have the executive power in their hands, they have generally at last trusted so much of it, or trusted it so long, in the hands of some popular minion, as to enable him to make a property of the sacred deposit, and by that means usurp the whole power of the commonwealth; and the misfortune is, that if the people happen to recover from such an usurpation, they never take warning, but trust again and again, till some such usurper finds means not only to possess himself of absolute power, but to transmit it to whomsoever he pleases to appoint for his successor.

This, Sir, was the very case of the Roman republic; for whilst the executive power was continued in the hands of the Patricians, the liberties of the people were inviolably preserved; but after the law was passed for admitting the Plebeians into the consulship, the executive power came at last to be lodged wholly in the populace, so that no man, not even the most distinguished Patrician, could aspire to the honour of being consul, unless he was a favourite with the populace. What was the consequence? The populace continued Marius so long in power, as to enable him to usurp the sole and absolute government of the republic. Did they from thence take warning? No, Sir: after they had got rid of him by death, and afterwards of all his faction by the help of Sylla; and after they had got rid of the usurped power of Sylla, by his most extraordinary resignation, they in a few years did the same thing again in favour of Julius Cæsar, whom they invested with so much power, and continued him so long in the exercise of it, that they enabled him to put a final end to public liberty; for after him there was nothing but faction and confusion, till Augustus Cæsar found means to establish himself in the possession of a sole and absolute power, and to transmit it to his successor. The case was the same in this country not much above a century ago: an enthusiastic populace, by the defeat and murder of their sovereign, had got the whole power of the government into their hands, and erected themselves into a commonwealth: could they keep what they had thus got possession of? No, Sir. They trusted so much of the executive power in the hands of their general Cromwell, that in a few years he was enabled to usurp the whole power of the government, and to put an end to their infant commonwealth. This was foreseen by some of the wisest heads among them; but they could not open the eyes of the populace, who are always so blinded by their love or their hatred, that they can never judge of any future event; and we might now have been groaning under the most abject slavery, if Providence had not made it necessary for Monk to restore our ancient constitution.

I could give many other examples, Sir, of the fatal consequence of trusting the executive power of a government in the hands of the populace, but these I chose to mention as being best known to every gentleman in the House. From these we may see the wisdom of our constitution; and from these I must conclude, that our adopting the regulation which the hon. gentleman was pleased to propose, and rejecting that which is proposed by the Bill now before us, would be of the most dangerous consequence to the liberties of the people of Bristol. Nor can I see, Sir, how it is possible for the magistrates of Bristol to make such a use of any power they are now possessed of, or of any power that is to be by this Bill lodged in their hands, as can enslave any man in that city, so as to oblige him to give his vote according to their direction, either at the wardmote for assessing the citizens pursuant to this act, or at any future election

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for members of parliament; for however tempting the post of watchman, or of any little officer belonging to the city courts, may be to a man in beggarly circumstances, it can have no commanding influence upon any man above that condition; and supposing, that the magistrates could by this means secure a dozen or a score of beggarly votes in every ward of that city, yet this could have no weight in an assembly which must always consist of so many hundreds of citizens in easy circumstances, every one of whom would, for his own sake, be obliged to take care, that no unjust and oppressive rate should be imposed upon any of his fellow-citizens in that ward.

But, Sir, it has been insinuated as if the magistrates may do by an appeal what they find they cannot do in the wardmote: that is to say, if they cannot prevail with the wardmote to over-rate a man against whom they have a resentment, they may do it by way of appeal. How this may be done, I cannot really see; for as I take it, no man will ever appeal to the magistrates in the quarter sessions, but such as think themselves aggrieved by having been over-rated by the wardmote; and therefore, though the magistrates may perhaps, upon an appeal, diminish the rate imposed by the wardmote, they cannot upon such an appeal increase it; and the allowing of an appeal to the magistrates upon such an occasion is not only, in my opinion, absolutely necessary, but is agreeable to what was established in the city of London by the act for enlightening their streets; for by that act it was enacted, that if any person should think himself aggrieved by the tax imposed upon him, he might appeal to the court of lord mayor and aldermen, whose judgment should be final and conclusive.

Thus, Sir, we must see that, with regard to the power of assessing the citizens towards the expence of these watchmen, the magistrates may relieve one who has been oppressed by his fellow-citizens in the wardmote, but they cannot oppress any man, or lay a greater tax upon him than his fellow citizens have thought reasonable; and with regard to their power over the wardmote assembled for this purpose, they are so far from getting any power over it by this act, that they cannot so much as be present as magistrates: some may be there as guardians of the poor, or as inhabitants of the ward; but no one of them can appear there in right of being mayor, alderman, or common-council man. But now suppose, that the magistrates should gain such an influence over the several wardmotes, as to get them to assess every inhabitant of their respective ward at what rate they please, yet the highest sum that can be, by this means, laid upon any man within that city, cannot be supposed to have such an influence, as to oblige him to vote at any election for members of parliament, according to the direction of the magistrates; for it is not to be supposed, that the tax upon any particular citizen can amount to above 5 or 6*l.* and 2 or 3*l.* a year, more or less, can never have such an influence upon any rich man, as to deprive him of his freedom to vote as he may think fit at any future election. Besides, if the magistrates should attempt by any such means to influence an election, they would be liable to be punished by this House; and upon proof of such a complaint a Bill would certainly be ordered to be brought in, for some proper alteration in the form of government of that city.

This alone, Sir, is with me a sufficient argument for not giving myself much trouble about the form of government established in any of our cities or boroughs; for while we sit here, and while we preserve our freedom and independency, I am sure, that due care will be taken to prevent any magistrate's making use of the power with which he is invested by the king's charter, either to the prejudice of public liberty in general, or to the oppression of any one who is subject to his power; therefore I do not think it worth our while to reject the Bill now before us, and to be at the trouble of contriving any new scheme for establishing, maintaining, and well governing a nightly watch within the city of Bristol; and as it has been on both sides confessed, that some such Bill is necessary, I shall be for adopting and going through with that now before us.

Mr. *William Northey:*

Sir; I was glad to hear the consideration of our national form of government introduced into this debate, because that consideration must necessarily shew the tendency which the Bristol form of government has to the establishment of slavery and arbitrary power. That the executive power of our government is lodged in the crown I shall readily grant, but at the same time I must observe, that by our constitution the king cannot by him-

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self alone do any act of government, or command any thing to be done: every order of his ought regularly to be in writing, and to pass through the proper office to which it belongs, by being countersigned by the chief officer of that office; and if without this formality any man should take upon him to execute the king's order, he would, notwithstanding its being in writing, be liable to have his conduct enquired into, and might be punished by parliament, if upon such enquiry it should appear, that what he had done was prejudicial to the state, or otherwise inconsistent with our constitution. On the other hand, when the king's orders are countersigned by the proper officer, though it be an established maxim of our constitution, that the king can do no wrong, nor be subjected to any punishment, yet the officer who countersigns his orders, though by his express command, may be punished by parliament, if those orders be illegal or oppressive upon any subject.

Thus, Sir, though the executive power be lodged in the crown, yet by our constitution it is in every instance liable to a check, and where is that check lodged? Not in a set of men chosen by the crown, or by one another, but in two assemblies, every member of one of which is chosen by the people, and every member of the other has not only a right to be there as long as he lives, but to transmit the same honour to his posterity. And with respect to the former of these two assemblies, no member thereof can continue to enjoy that honour above seven years, unless the people in some of their districts should from his former conduct judge him fit to be again trusted with the guardianship of their liberties, which they certainly would not, or at least ought not, if he had refused to concur in the prosecution of any minister, who had either advised, countersigned, or executed any royal order that was prejudicial to the state, inconsistent with our constitution, or oppressive upon the subject.

From hence, Sir, gentlemen may see how securely the people are by our constitution guarded against any bad use of the executive power, which is the only one of the three powers of government that can any way be said to be solely lodged in the crown; for as to the jurisdictive power, though the king appoints the judges, yet we know, that an appeal lies from them to parliament; and besides, they are liable to be prosecuted and punished by parliament, if they should appear to have been guilty of manifest injustice or partiality in their proceedings: nay, even in their proceedings they are circumscribed by the people in their several districts; for they can pass no sentence either in civil or criminal matters, until the facts have been found proved by a jury. And though the other House now claim the sole right of determining all appeals from the king's judges, yet even upon their determinations the people will always have some sort of check by means of this House; for if the other House should ever begin to be partial and unjust in their determinations, which to their honour they could never yet be accused of, this House, in conjunction with the crown, would find means to rectify what had been done amiss, and to prevent the like in time to come.

Then with respect to the legislative power, we all know, Sir, that the crown, and the two Houses of Parliament, by having each a negative in the passing of any law, become thereby a check upon each other; and even the people in general have some sort of share in the legislature; for whilst our constitution is preserved, the general voice of the people, especially when founded in justice and the public good, must always have great influence upon the resolutions of this House; and our resolutions, when established upon the same foundation, must always have their due weight with the other two branches of our legislature, with respect to the passing of any law which the people think necessary for their security or happiness, or the repealing of any law which they by experience have found to be inconsistent with either.

From this short account of our national constitution, Sir, we may see in what our national liberty consists: it consists chiefly in this, that with respect to the three principal powers of government, no one man, nor any one assembly of men, can in any of the three act arbitrarily without being checked and controuled by some other; and the last and supreme check is the general voice of the people. Therefore, whilst our constitution is preserved, we may with some propriety say, 'Vox 'Populi est Vox Dei;' and whilst this is the case, the 'Salus Populi' will be the 'suprema Lex' to every man of common prudence that may have a share in our government. Can this be said to be the case with respect to the form of government established in the city of Bristol? There, the executive, the jurisdictive, and the

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legislative power, are all lodged in one assembly, consisting of but a very few members who chuse one another, and who pass what laws and what sentences they please, and execute those laws and those sentences in what manner they please, without any check or controul from any man, or assembly of men, within that city; nor have they the least dependance upon the citizens, either for their election into that assembly, or for influencing their proceedings after they are there; from whence, I think, I may justly conclude, that the citizens of Bristol, as citizens, are subject to as arbitrary a power as ever was established in any country.

This we may be convinced of, Sir, if we will but examine with attention their several charters, especially the last, which concludes with a general grant and confirmation of all the jurisdictions, liberties, powers, and franchises, exemptions, privileges, emoluments, and hereditaments whatsoever, not thereby altered, as they ever before had or enjoyed, notwithstanding their having been ill used, not used, or abused, or discontinued. From these charters we shall see, that the supreme government of that city is lodged in an assembly, consisting of a mayor, 12 aldermen, and 30 common-council men, which is called the common-council of that city; and though in former times the members, or most of the members of this assembly, were chosen by the citizens, yet custom so far prevailed, and is now established by charter, that the citizens have not now the least share in the election of any one of them; for when any one dies, or is removed, a new one is chosen in his room by a majority of the rest. Then as to the power of this assembly, it is monstrous, considering how the members acquire their right to sit there; for first, as to the legislative power of government, those self-created and irremovable counsellors have a power to make what bye-laws they please, and to enforce those laws by what punishments, fines, or amerciaments they please, without the least regard to the advice or consent of their fellow-citizens, and without any restraint but of their not being repugnant or contrary to the laws of England; which is really a greater, or at least a more independent power than is lodged in King, Lords, and Commons; for as we of this House are chosen by the people, and must at the end of 7 years again apply to them for our re-election, we must have a regard to the voice of the people, with respect to every law we agree to, and the other two branches of our legislature can make no law without our consent. Then as to the jurisdictive power, it is wholly lodged in a few of the members of this assembly, or the officers chosen by them; for the mayor and aldermen of Bristol are not only justices of the peace, but of oyer and terminer, and of gaol delivery, within that city; and as to all disputes relating to property, they must all be tried and determined by officers chosen by this council or assembly; for no citizen is to sue, or to be sued, for any estate lying within the liberties of the city, or for any contract, bargain, or trespass, within the same, but before the courts established by charter or custom within the city. And lastly, as to the executive power, it is wholly lodged in this one assembly, or in such officers as are chosen by them, and accountable for their conduct to them alone: nay, they have in their hands not only the whole of the executive power, but also the absolute disposal of all the revenues of that city, and of all fines and amerciaments levied by them, without any account to be rendered to any man, or to any other assembly whatever.

In short, Sir, the citizens of Bristol have not now any one badge of English liberty remaining, but that of being tried by a jury of their neighbours, and that of chusing their own representatives in parliament; and if you make but a very little addition to the power of their magistrates, you will leave them nothing but a shadow of either of these; for what advantage can I reap from a trial by jury, if I can have no jury but of such as must for their own safety determine against me? Or could the citizens of Bristol be properly said to have the choice of their own representatives in parliament, when no candidate could expect success if the magistrates should declare against him? Yet this I am convinced will in a very few years be the case, both as to trial by jury, and as to the choice of members of parliament, in the city of Bristol, if you make the addition now proposed to the power of the magistracy of that city; for as to trial by jury, let us consider, that the sheriffs are annually chosen by the common-council, and that being common-council men, as they always must be, they will be in hopes of being chosen aldermen upon the first vacancy after they have served the office of sheriff; therefore whilst they are in that office, they will be as subservient as possi-

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ble to those that are the leading men in the common-council; and from such sheriffs can any man expect an impartial jury, if he happens to have the misfortune to be upon bad terms with the leading man in the common-council? This alone, Sir, may shew how much the magistracy have it already in their power to distress any citizen who very arrogantly, as they may call it, sets up to be independent of them; and if to this you add the disposal of such a sum of money as they may raise yearly by this Bill, if passed into a law, it will soon give them an absolute power over all future elections of members of parliament for that city. The rich and independent part of the citizens may for some time be able to make head against them; but the disposal of such a sum of money yearly, will by degrees engage such numbers of the poorer sort in their interest as to enable them to have always a majority, not only at every election, but at every wardmote; and their perpetual success at the latter will secure their success at every former, which in a short time will put an end to all opposition either at the one or the other.

That this will be the case of the city of Bristol in a very small number of years, if this Bill passes into a law, I am fully convinced, Sir; for whatever the hon. gentleman who spoke last may think of the post of a watchman or night constable, there are in Bristol, and in every county of the kingdom, a great number of voters who would be glad of 18*l.* a year, in a way which cannot much interfere with their other sort of business, and many who can no way be said to be in beggarly circumstances, and yet would think themselves very much obliged to any one who should give a post of 18*l.* a year to some poor relation; therefore 5 or 6,000*l.* a year to be disposed of in this way, must always have great influence both in the wardmote, and at every election; and this sort of influence it is impossible for this House to take any notice of, because when a man votes as privately directed by the magistrates, it is impossible to prove that he does so for the sake of a watchman's place, or in hopes of having the next vacancy; consequently the effect of this influence can no way be prevented, and when this influence is added to all the other sorts of influence which the magistrates are already possessed of, we may easily judge what an effect it will soon have upon every future election.

This effect, Sir, as well as every other bad effect that is to be apprehended from the monstrous power lodged, or to be lodged in the common council of Bristol, must be the more terrible to the citizens, as it is so easy for that assembly, from the nature of their constitution, to prevent any divisions ever happening among them. If such a division should happen, a citizen might have a chance to protect himself against the revenge or resentment of some of the members of this assembly, by the friendship and patronage of some of the rest; but as they have themselves the sole power of filling up every vacancy that shall happen in their assembly, they will take care not to admit any one but such as the leading man can depend on; and if any new member should after being chosen prove refractory, and begin to foment a division among them, they have an easy and an expeditious way by their constitution to get rid of him; for it is but accusing him of some misbehaviour, of which they are themselves the judges, and after declaring that he has thereby forfeited his seat in that assembly, they may order another to be chosen in his room, as every member is by their last charter to have his seat there only whilst he behaves well; and by their old charters, the mayor and aldermen are expressly impowered, at their discretion, to remove and depose any of the aldermen, whensoever they shall please, and to chuse another in the room of the alderman so by them deposed.

Having now, Sir, explained the nature of our national form of government, and likewise that of the form of government established in the city of Bristol, every gentleman must see what a material difference there is between them: in the former no one of the three chief powers of government is lodged in any one man, or in any assembly of men, without being checked and controuled by some other; and in the exercise of every one of these powers some regard must be had to the voice of the people in general: in the latter all the three chief powers of government are lodged in one assembly of men closely united together, without any check or controul: which assembly, by the nature of its constitution, is under no necessity to have the least regard to the voice of the people in their exercise of any one of these powers. Must not every gentleman from hence see, that the form of government established in the city of Bristol is as absolute and arbitrary as any aristo-

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cratical form of government that was ever, or ever can be established; and that the citizens of that city would be as absolute slaves as the people in Turkey, if it were not for the restraint which their magistrates are under, not to act in direct opposition to the laws of the kingdom.

But now, Sir, as to this restraint, how are they to be kept under it? Not surely by any complaint or prosecution in any of the courts of Westminster-hall: for it would be almost impossible for any private man to go through with such a prosecution at his own expence against the corporation of Bristol; and he could not depend upon being supported by any voluntary contribution amongst his fellow-citizens: therefore no prudent man will ever engage in such an undertaking. The only method then by which the citizens of Bristol can prevent their being as much slaves to their magistrates, as the people in Turkey are to their bashaws, is to choose two gentlemen for their representatives in parliament, who are independent of their magistrates: whilst they can do this, it will be easy for their representatives to lay their complaints before this House, and if upon enquiry it should appear, that the magistrates had made any by-laws repugnant to the laws of England, or had in any thing acted in an oppressive manner, or directly contrary to the laws of the kingdom, this House would certainly address his majesty to order his attorney-general to prosecute them. But this, which is the only resource the citizens of Bristol have against the worst of all slaveries, that of an aristocratical slavery, you will deprive them of by the passing of this Bill into a law; for it is evident, I think, that after a few years, and after perhaps two or three unsuccessful attempts on the part of the people, the representatives for that city will always be chosen, not by the people, but by the magistrates.

From hence, Sir, we must see the necessity of not lodging the establishment and government of a nightly watch in the magistrates of Bristol; and if it be not lodged in them, it can be lodged no where but in trustees to be chosen by the people in their several wards, as they are now in the several parishes of Westminster. To call this a lodging of the executive power in the populace is really surprising; for watchmen have no share of the executive power, they are only assistants to the constables, as every subject is obliged to be, and are employed and paid, that they may be ready for that purpose when the other subjects are in their beds: consequently, the trustees who are to have the government of them, cannot be said to have any share of the executive power; and if this could be properly said, it would not be inconsistent with our constitution, which in many cases, especially in our cities and boroughs, has lodged in the people the choice of those who are employed in the executive part of our government; and even in our counties it was originally the same, for the sheriff or shire-reve was originally chosen by the freeholders, as the coroner is to this day.

After what I have said, Sir, I have no great occasion to take notice of the remarks made by the hon. gentleman who spoke last upon the Roman government; for our form of government is so different from theirs, that no just parallel can be drawn from the one to the other. And to conclude, if the establishment and government of a nightly watch in Bristol were lodged in trustees to be chosen by the people, I should not be against an appeal from them, with regard to their assessments, to the magistrates in their quarter sessions; because if upon such appeal the magistrates should be guilty of manifest injustice, by diminishing the assessment of a favourite citizen too much, or increasing that of one they did not like too much, the trustees would be such a body of men as might stand against the corporation, and might procure redress either from the king's courts, or from parliament, which no private man could at his own expence undertake. I have said, increasing as well as diminishing the assessment upon an appeal; because it is certain, that any man who thinks his neighbour assessed too low may appeal, as well as he who thinks himself assessed too high; and as in the latter case the judges upon the appeal may diminish the assessment, so in the former they may certainly increase the assessment as much as they please, and may raise it to a very extravagant height, when there is no possibility of contesting their determination, or getting them punished for their injustice, which will be the case if the Bill now before us should be passed into a law.

The question upon a division was carried in the negative by 153 to 71. And on the 19th the Bill was passed.

Supplies granted.] The total of the

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supply granted this session, was 4,073,779*l.* one million of which was granted to his majesty for enabling him to augment his forces by land and by sea; 20,000*l.* subsidy was granted to the elector of Bavaria, and 32,000*l.* to the king of Poland. Little or no opposition was made in the committee of supply to those grants. It was well known that the French were exerting themselves at Brest, and other of their ports, in fitting out a powerful naval armament, on board of which a great body of land forces was to be embarked; and they made no secret, that the whole was designed to support their settlements in North America. It was evident that the court of Versailles would never have ventured upon this bold measure in the then imperfect state of their marine, had they not trusted to the superiority of their land force in Europe for invading his majesty's German dominions, and thereby engaging him to make a peace upon their own terms. For this reason it was that those foreign subsidies met with no opposition in the committee of supply.

Debate in the Commons on the Lottery.] Amongst the other Resolutions made by the Committee of Ways and Means, one was, "That a sum not exceeding one million, be raised by way of lottery; 100,000*l.* thereof to be deducted for the benefit of the public, and the remaining 900,000*l.* to be charged on the produce of the sinking fund, at the rate of 3*l.* per cent. per annum, to commence from the 5th of January, 1756. The tickets to be 10*l.* each; two pounds whereof to be paid down at the time of subscribing by way of deposit; such subscription to be finally closed at five o'clock in the afternoon of the 15th of this instant April: and in case a larger sum than the said million shall be subscribed within the said term, a proportionable reduction upon such expence shall, as near as possible, be made out of each subscriber's share." This particular is mentioned here, as a proof of the distress the government was at this time under to raise money. And indeed the lottery did not pass the Commons without some animadversion; and in particular the following Speech,* which was made against it.

Sir; we are now called upon by our sovereign, and, perhaps, required by the state of our affairs, to form some scheme for the supply of extraordinary expences. To contrive any new means of supplying the wants of the government must be allowed to be very difficult in a state like that of the British nation; a nation overwhelmed with taxes, which, if we may judge of the future by the past, are never to be remitted; and encumbered with debts, which no continuance of peace is likely to make less, though not only every war, but every distant sound of war, is suffered to increase. Some expedient must, however, be found in days of necessity, even by those who have negligently suffered all expedients to be exhausted. We are told that the danger of our country now urges us to raise money, and the only question is, by what means it shall be raised.

Our undertakers of pecuniary business do not, indeed, seem to think with much intenseness upon this exigence, however perplexing and distressing to vulgar understandings. They may, perhaps, talk of enquiry and deliberation, but, under all the gravity of public counsellors, they are probably laughing at those, whose inexperience in ministerial practices, or zeal for the general interest, disposes them to enquire with solicitude, or deliberate with seriousness. The factors between the treasury and the public are never without a scheme sufficient for the present purpose, and therefore proportionate to the wishes of men, who provide only for the present hour; and while they can supply the demand of the year, are little inclined to look forward to another. While others are endeavouring to discover how the state may be supplied, without injury to individuals, these men repose at ease upon a support which never fails; and, at last, expect the thanks of the public for proposing a lottery.

On this, therefore, as on former occasions, a lottery is to be tried. I am so far of the same opinion with those whom I oppose, that I believe a lottery likely to produce the sum desired, perhaps a much greater sum, and in much less time than the term limited. The efficacy of their scheme I readily admit; but the most efficacious methods are not always those which ought first to be tried, or to be made useless by frequent practice; they are more properly reserved to times of danger, as the last refuge of distress, and to be tried only when others have failed. To no such time, Sir, are we yet come, and therefore I am unwilling yet to raise money by a lottery.

* From the Gentleman's Magazine.

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It is known to every man who looks upon the world, that vice, like other sublunary things, has its variations and vicissitudes, that, at certain times, a particular species of wickedness grows unfashionable and obsolete, and some new mode of licentiousness rises up by accident or example, which, for a time, seduces a community, and then gives way to some crime of more novelty and greater attraction. The great duty of government is to observe the predominant corruption, and to provide antidotes for the present epidemical disease of their morals; nor can any man more grossly betray his trust, than he, who, being placed as the superintendant of the people, shall inflame a passion, already too hot to be restrained by the laws, and diffuse the contagion of a vice, which is already catching man after man, and spreading from one rank of the community to another.

The moral disease of the present generation is well known to be the love of gaming; a desire to emerge into sudden riches; a disposition to stake the future against the present, and commit their fortunes, themselves, and their posterity, to chance. The consequence of this pernicious passion is hourly seen in the distress of individuals, the ruin of families, the extravagance and luxury of the successful, and rage and fraud of those that miscarry; this, therefore, is the vice, at least one of the vices, against which the whole artillery of power should be employed. From gaming the people should be dissuaded by instruction, withdrawn by example, and deterred by punishment. To game, whether with or without good fortune, should be made ignominious; he that grows rich by it ought to be deemed as a robber, and he that is impoverished, as a murderer of himself.

Yet, what are the men entrusted with the administration of the public now proposing? What, but to increase this lust of irregular acquisition, and to invite the whole nation to a practice which the laws condemn, which policy disapproves, and which morality abhors? For what is a lottery but a game?

Let us consider the motives that fill every lottery with subscribers, who seldom know, or care to know, the terms on which they advance their money, or number the chances of gain or loss. The ground of this, as of every other adventure, is the hope of profit. But, in other adventures, the possibility of profit is in exact proportion to the share of the capital stock, and therefore hope has less opportunity to delude with dreams of wealth; but, in a lottery, the whole distribution is given up to chance, with whom every man is at liberty to believe himself a favourite, and whose bounty he therefore anticipates, in proportion to the natural sanguineness of his temper.

The persons who risk their money in lotteries are, I believe, for the most part, the needy or extravagant; those whom misery makes adventurous, or expence makes greedy. And of these, the needy are often ruined by their loss, and the luxurious by their gain. He whose little trade, industriously pursued, would find bread for his family, diminishes his stock to buy a ticket, and waits with impatience for the hour which shall determine his lot; a blank destroys all his hopes, and he sinks at once into negligence and idleness. The spendthrift, if he miscarries, is not reclaimed; but if he succeeds, is confirmed in his extravagance, by finding that his wants, however multiplied, may be so easily supplied.

It is universally allowed, that reward should be given only to merit, and that, as far as human power can provide, every man's condition should be regulated by his merit. This is the great end of established government, which lotteries seem purposely contrived to counteract. In a lottery, the good and bad, the worthless and the valuable, the stupid and wise, have all the same chance of profit. That wealth which ought only to be the reward of honest industry, will fall to the lot of the drone, whose whole merit is to pay his stake, and dream of his ticket.

If yet the whole mischief is the riches of a few sluggards, this practice, though it could not be commended, might be borne; but it is dangerous to teach mankind a way to riches, which requires neither skill nor industry to travel. All men naturally desire wealth, and most men are naturally averse from labour; and therefore easily encourage the hope which promises the attainment of what they wish, and an escape from what they dread. The sight of one thus fortuitously blessed with affluence, and rioting in plenty, which was the gift of a lucky moment, will stop hundreds in the career of diligence; they will gaze awhile with envy, and then think on imitation; they will grow impatient of the slow profit of their callings, and resolve to wait upon that fortunate wheel, which can

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at once set them free from their irksome business, and make life a perpetual holiday.

Of these the greater part will necessarily be disappointed, but their frenzy is seldom cured; they continue to despise labour, and live on with indolent expectation of another lottery, which, like the former, mocks them with disappointment. Industry and frugality are the only causes of national wealth; but lotteries lure the diligent from their work, and entice the frugal to expence. Lotteries may be truly said to have made many poor, but none rich. The presents of fortune are seldom husbanded with much care, or employed to any other purpose than that of expensive vanity, or luxurious vice. I hope, therefore, that I shall not be censured, as opposing the ministry from perverseness or caprice, if I declare, that I am desirous to raise the sum now required, rather by any other method than that of a lottery.

*The King's Message concerning an Augmentation of the Forces.**] March 25. The following Message from his majesty was sent down to the Lords:

"GEORGE *R.*

"His majesty, having at the beginning of this session declared, that his principal object was to preserve the public tranquillity, and at the same time to protect those possessions which make one great source of the commerce and wealth of his kingdoms, now finds it necessary to acquaint the House of Lords, that the present situation of affairs makes it requisite to augment his forces by sea and land; and to take such other measures as may best tend to preserve the general peace of Europe, and to secure the just rights and possessions of his crown in America, as well as to repel any attempts whatsoever that may be made to support or countenance any designs which may be formed against his majesty and his kingdoms: and his majesty doubts not but he shall have the concurrence and support of this House (on whose affection and zeal he entirely relies), in making such augmentations, and taking such measures, for the support of the honour of his crown and the true interests of his people, and for the security of his dominions in the present critical conjuncture, as the exigency of affairs may require. In doing which, his majesty will have as much regard to the ease of his good subjects as shall be consistent with their safety and welfare."

The Lords' Address thereon.] The said Message having been taken into consideration, their lordships agreed upon the following Address:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Message.

"Nothing can more clearly demonstrate your majesty's paternal concern for the welfare and prosperity of your people, than the royal care and firm resolution, which you have had the goodness to re-

* "The nation, at the time this Message was delivered, was so strongly convinced of the wisdom and necessity of a war with France, that a most dutiful Address was unanimously voted in answer to the Message, and a million was granted. The earl of Albemarle, the English ambassador at Paris, had been dead for some time; and though the French, in all their sea-ports, were making the greatest preparations for supporting their encroachments in America, yet the strongest assurances came to England from that ministry, that no such preparations were making, and that no hostility was intended by France against Great Britain or her dependencies. These assurances were generally communicated to the British ministry by the duke of Mirepoix, the French ambassador, who was himself so far imposed upon, that he believed them to be sincere, and did all in his power to prevent a rupture between the two nations. The preparations, however, were so notorious, that they could be no longer concealed; and Mirepoix was upbraided at St. James's with being insincere, and the proofs of his court's double dealing were laid before him. He appeared to be struck with them; and complaining bitterly of his being imposed upon, he went in person over to France, where he reproached the ministry for having made him their tool. They referred him to their king, who ordered him to return to England with fresh assurances of friendship; but he had scarcely delivered them, when undoubted intelligence came, that a French fleet from Brest and Rochfort, was ready to sail, with a great number of land forces on board. Upon this, a very hot press was begun upon the river Thames, and in all the out ports of England, and continued both for seamen and landmen, till, besides the ordinary cruizers and guard-ships for the defence of the English coast, eleven ships of the line, and one frigate, with about 6,000 men on board, were fitted out under admiral Boscawen, and sailed on the 23rd of April." Tindal.

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peat to us, to maintain the just rights and possessions of your crown against all encroachments, and to protect the commerce of your kingdoms.

"The preservation of the public peace is an object which your majesty, out of your benevolent disposition for the good of your faithful subjects, as well as of mankind in general, will always have at heart; and we thankfully acknowledge your great wisdom, in taking the most vigorous and effectual measures to prevent the infraction of it.

"Duty and affection to your majesty, zeal for your royal person, family and government, have always been the great motives of our conduct. Warmed with these sentiments, and unalterably fixed in the same principles, we are fully convinced of what high importance it is to strengthen your majesty's hands in the present situation of affairs.

"And we do, from the bottom of our hearts, assure your majesty, that we will cheerfully and vigorously support your majesty, in making such augmentations of your forces by sea and land, and in taking such other measures as events may make necessary, for maintaining the honour, rights, and possessions of your crown, and the true interests of your people, and for the security of your dominions; and that we will zealously stand by, and assist your majesty, in repelling any attempts whatsoever that may be made to support or countenance any designs which may be formed against your majesty and your kingdoms."

The Commons' Address thereon.] A similar Message was brought down to the Commons. As soon as it was read,

Mr. Secretary *Robinson* moved, "That an humble Address be presented to his majesty, to return him the thanks of this House for his most gracious Message; and to express the intire confidence this House has in his majesty's constant attention to preserve the public tranquillity, to maintain the commerce and true interests of his people, and to secure the just rights and possessions of his crown against all attempts whatsoever; to assure his majesty, that his faithful Commons will, with the utmost zeal and affection for his royal person, family, and government, effectually enable his majesty to make such augmentation of his forces by sea and land, and to take such measures for the security of his dominions, the trade and commerce of his people, and the just rights and possessions of his crown, as shall be found necessary in the present conjuncture; and that they will, with the greatest vigour and resolution, stand by and support his majesty in repelling every attempt that may be made to countenance or support any designs which may be formed against his majesty and his kingdoms."

In consequence of this Message, the sum of One Million was granted to his majesty, to enable him to augment his forces by sea and land.

*Earl Poulett's Motion in the Lords for an Address to the King not to visit his Electoral Dominions.**] April 24. Earl

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* "The Earl of Chesterfield to Mr. Dayrolles. May 2, 1755.

"You have certainly heard of, and probably seen lord Poulet's extraordinary motion, which he made in the House of Lords, just before the rising of the parliament, when it could not possibly have any good effect, and must necessarily have some very bad ones. It was an indecent, ungenerous, and malignant question, which I had no mind should either be put or debated, well knowing the absurd and improper things that would be said both for and against it, and therefore I moved for the House to adjourn, and so put a quiet end to the whole affair. As you will imagine that this was agreeable to the king, it is supposed that I did it to make my court, and people are impatient to see what great employment I am to have; for that I am to have one they do not in the least doubt, not having any notion that any man can take any step without some view of dirty interest. I do not undeceive them. I have nothing to fear, I have nothing to ask, and there is nothing that I will or can have." Lord Chesterfield's Miscellaneous Works, vol. 4, p. 167.

The Hon. Horace Walpole to Richard Bentley, Esq. Arlington Street, May 6, 1755.

"I told you of lord Poulet's intended motion. He then repented, and wrote to my lady Yarmouth and Mr. Fox to mediate his pardon. Not contented with his reception, he determined to renew his intention. Sir Cordel Firebrace took it up, and intended to move the same Address in the Commons, but was prevented by a sudden adjournment. However, the last day but one of the session, lord P. read his motion, which was a speech. My lord Chesterfield (who of all men living seemed to have no business to defend the duke of Newcastle after much the same sort of ill usage) said the motion was improper, and moved to adjourn. T'other earl said, 'Then pray, my lords, what 'is to become of my motion.' The House

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Poulett made a motion for an humble Address to be presented to his majesty, that he would be graciously pleased to lay aside his intentions of visiting his Electoral Dominions, and not to leave these kingdoms in so critical and dangerous a conjuncture. The motion was in these words:

"That an humble Address be presented to his majesty, to represent to his majesty, in the most dutiful manner, that it was an article in the original Act of Settlement, by which the succession of these kingdoms devolved to his Electoral House, that the king should not go to his foreign dominions without consent of parliament, and that this was a principal article in the compact between the crown and the people.

"That though that article was repealed in the late reign, yet till of late it has still been the custom for his majesty to acquaint the parliament with his intended departure to his German dominions, both in regard to the true sense and spirit of the act that placed him on the throne, as well as from the paternal kindness of his royal heart, and the condescension which he has been so good to shew his parliament on all occasions.

"But that his majesty's most gracious speeches from the throne, by which he has been pleased to communicate his intentions of visiting his electoral estates, have always come on the last day of a session, as a time the most convenient for his majesty to speak to his people from the throne; by which advice of his ministers the intention of his majesty's most gracious participation of it is entirely defeated, as coming too late for the great constitutional council of the crown to offer such advice as the situation of public affairs might have made expedient and necessary.

"That this juncture most particularly requires that we should, by a timely and dutiful representation to his majesty, remove the inconvenience attending the repeal of the above-mentioned clause, lest the consequence of that parliamentary respect should be construed servile adulation to the crown; which, by lessening the credit of parliament would undermine the true and solid basis of his majesty's government, and totally subvert the liberty and felicity of these kingdoms, happy in their monarch, happy in their liberty, and gratefully resolved to maintain the illustrious House of Hanover on the throne, and, under the protection of Almighty God, determined to deliver their liberty uninfringed to the latest posterity.

"That it must give the greatest advantage not only to such as secretly and seditiously endeavour to stir up disaffection and discontent, but to our constitutional and national enemies, by allowing them a season to sow the seeds of discord and disaffection, a matter of the more melancholy consideration, as the most brave generally fall a sacrifice, being drawn aside from their allegiance by the artifice of the most base and unworthy, by whom they are spirited up, and who too often escape with impunity.

"That at a conjuncture so pregnant with distress, so denunciative of danger, the being deprived of his majesty's presence and immediate protection must give his truly loyal subjects the most affecting concern and most gloomy apprehensions, that it may give the greatest advantage to the enemies of Britain, by encouraging them to continue their insults, their usurpations, and the violation of treaties relative to America; to change into derision their present dread of our very expensive, though laudably conducted and extremely necessary naval preparations; whilst they continue an illusory negociation till they find discontent ripe for insurrection, or occasion ripe for invasion, promoted perhaps by his majesty's absence as the most favourable opportunity, and not so soon, or so happily suppressed as that which happened during his majesty's absence in the late war. A terrible state for any country to be in without their head, and without their sovereign, and always of very pernicious consequence, and very dreadful whatever fate it meets.

"For the sake of his majesty's most precious and invaluable life, at all times of so much consequence, especially from the experience he has acquired by years, the affection he has gained to his person during so long a reign, and of the greatest consequence during the minority of a prince, a contingency of great influence on our foreign, as well as domestic affairs.

"For the sake of the honour and dignity of the crown of these realms which his majesty wears with so much lustre; and

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burst out a laughing; he divided it, but was single. He then advertised his papers as lost. Legge, in his punning style, said, 'My lord P. 'has had a stroke of an apoplexy; he has lost 'both his speech and motion.' It is now printed; but not having succeeded in prose, he is turned poet—you may guess how good!" Lord Orford's Works, vol. 5, p. 321.

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whose dignity and authority can only be supported by his presence.

"That animated with the same spirit as influenced those real patriots who planned and carried into execution that glorious Act, by which alone his majesty became intitled to the imperial crown of these kingdoms, and not from any desire to lay a restraint on the illustrious person on the throne, derogatory to the true glory of the crown, we with the most earnest and fervent prayers for the safety of these kingdoms, under the influence of his majesty's royal person and equitable government, humbly intreat his majesty's most auspicious and powerful protection by his residence in these kingdoms, with a people who will never desert him in a day of danger, and who are ever ready to support his majesty and his illustrious House at the hazard of their lives and fortunes."

This motion was not seconded. Upon which the earl of Chesterfield moved the House to adjourn, which motion, according to the orders of the House, being to take place, that of the earl Poulet for an Address became thereby postponed; but lord Poulett having declared that, in truth and common sense he looked upon that motion of the earl of Chesterfield's to be a negative put on his own, insisted on a division, in which he appeared to be the only lord against the adjournment.*

The King's Speech at the Close of the Session. †] April 25. The King put an end to the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The many eminent proofs which you have given of your duty and affection to my person and government, during the course of this session of parliament, have afforded me the greatest satisfaction; and the zeal you have shewn for supporting the honour, rights, and possessions of my crown, has been no less agreeable to me.

"My desire to preserve the public tranquillity has been sincere and uniform. I have religiously adhered to the stipulations of the treaty of Aix la Chapelle, and made it my care not to injure, or give just cause of offence to, any power whatsoever; but I never could entertain a thought of purchasing the name of peace at the expence of suffering encroachments upon, or of yielding up, what is justly belonging to Great Britain, either by ancient possession, or by solemn treaties. Your vigour and firmness, on this important occasion, have enabled me to be prepared for such contingencies as may happen. If reasonable and honourable terms of accommodation can be agreed upon, I shall be satisfied. In all events, I shall rely on the justice of our cause, the effectual support of my people, and the protection of the Divine Providence.

"Gentlemen of the House of Commons,

"I return you my thanks, for the necessary provisions you have made for the

* In the original publication of this motion, there was subjoined the following paragraph: "The London Evening Post having refused to publish this motion with the authority, permission, and indemnity of the noble lord who made it, the world is therefore acquainted with it, that it may not be misled, and that it may reflect how much more dangerous an influence it is that thus secretly undermines the liberty of the press, than a total subversion of it by arbitrary power and ministerial authority; for, by this means, the world may be deceived, and the transactions of patriots as well as ministers be concealed."

† "The situation of public affairs requiring his majesty to go to Germany this summer, had created great apprehension in the minds of men, lest the French might either intercept him in his journey, or prevent his return. The earl of Poulet had made a motion, or rather a speech, in the House of Peers, against his majesty's leaving the kingdom at that juncture; but he was the only lord who divided from his question. Notwithstanding this, the public uneasiness continued still to be very great; and the more so, as it was apprehended that there would, during his majesty's absence, be no good agreement amongst the regency, who were as follows. His royal highness William duke of Cumberland; Thomas lord archbishop of Canterbury; Philip earl Hardwicke, lord high chancellor; John earl Granville, president of the council; Charles duke of Marlborough, lord privy seal; John duke of Rutland, steward of the household; Charles duke of Grafton, lord chamberlain; Archibald duke of Argyle; duke of Newcastle, first commissioner of the treasury; duke of Dorset, master of the horse; earl of Holderness, one of the secretaries of state; earl of Rochfort, groom of the stole; marquis of Hartington, lord lieutenant of Ireland; lord Anson, first commissioner of the admiralty; sir Thomas Robinson, secretary of state; Henry Fox, esq. secretary of war." Tindal.

"Notwithstanding the possession of the king's confidence, and lady Yarmouth's influence, the duke of Newcastle was perplexed in the distribution of places, and as much embarrassed in the choice of co-adjutors, as if he

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service of the current year. The extraordinary supply which you have granted me towards augmenting my forces by sea and land, is such a proof of your confidence in me, and of your constant attention to the service of your country, that I cannot sufficiently express the satisfaction I take in this seasonable care of the safety of my kingdoms and dominions, or in the evidence it has produced of the extent of our public credit, and of the zeal of my subjects in this conjuncture.

"My Lords, and Gentlemen,

"I have nothing to desire of you, but steadily to pursue those good principles which you have so solemnly professed to me, and, with so much honour to yourselves adhered to: Let it be your endeavour to maintain tranquillity and good order in your several countries, and to cultivate in my good subjects just notions of my government and measures, which are, and shall always be, directed to their happiness and prosperity."

The parliament was then prorogued to the 27th of May: but it did not meet until the 13th of November.

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had been thwarted by cabals in the closet. His jealous temper rendered him unwilling to admit any persons, likely from their talents, weight or influence, to weaken his authority; he was therefore averse to nominate, for his co-adjutor, either Mr. Fox, or Mr. Pitt; the former, because he was agreeable to the king, and warmly supported by the duke of Cumberland; the latter, on account of his aspiring temper and transcendant abilities. But both were too highly esteemed by the public, and had too many adherents in parliament to be wholly overlooked on this occasion.

"Mr. Fox had importuned for the posts occupied by Mr. Pelham as due to his past services; but finding that the duke of Newcastle had designed the treasury for himself, he applied for the office of secretary of state; and through the intervention of the marquis of Hartington, obtained a promise of the seals, accompanied, as he thought, with the direction of the House of Commons. His nomination was even announced to the cabinet council, and he wrote circular letters to the members, declaring that the king had been pleased to entrust him with the conduct of the House of Commons. But discovering in a conference with Newcastle, that he was not to have the management of the House of Commons, he refused to submit to what he called a degradation, and declined the acceptance of the seals.

"Mr. Pitt, as before, made no solicitation, but expected the offer of the seals; and when he heard of Mr. Fox's appointment, complained that he was not consulted, but only informed, and that his inveterate enemy was raised to a post which was his due. But the duke of Newcastle, who was less desirous of having Mr. Pitt as a co-adjutor than Mr. Fox, alledged the king's personal antipathy as an excuse for his exclusion, and gave the office to sir Thomas Robinson, whose extensive knowledge of foreign affairs, and long residence at the court of Vienna, rendered him a proper person to fill the southern department.

"The duke of Newcastle, however, endeavoured to sooth Mr. Pitt, by appointing his brothers-in-law, Mr. George and Mr. James Grenville, to the offices of treasurer of the navy, and lord of the treasury, and his friend Mr. Lyttelton to the post of cofferer of the household. Mr. Legge, a person of considerable talents and great popularity, was, after a short delay, constituted Chancellor of the Exchequer; and other changes were made in the subordinate offices, calculated to give strength to government.

"All parties were dissatisfied with these arrangements, and their dissatisfaction was augmented by the subsequent conduct of the duke of Newcastle, whose only view was to engross the sole confidence of the sovereign. Even most of those who had been raised to new offices were no less discontented. Mr. Legge complained that he was a mere cypher in government, and the Grenvilles thought their rank and connections deserved more consideration than they received, and declared that nothing would satisfy them while their great friend, Mr. Pitt, was dissatisfied.

"This being the state of parties, the two rival orators naturally repressed their reciprocal jealousy, and, though they retained their places, united their endeavours to counteract the measures of the new secretary of state. Sir Thomas Robinson, who has been already mentioned as the secretary and friend of Mr. Walpole, though personally agreeable to the king, and, by his diplomatic knowledge, eminently qualified for fulfilling the duties of his office, was yet ill calculated to resist the weight of the combination against him. He was without parliamentary influence, and though he spoke with judgment and information, and conducted the business of government with credit through the second session of the parliament, while the two great orators were silent, yet he was unable to enter the lists against the gigantic talents of Pitt and Fox when they meditated opposition.

"At the close of the session, therefore, perceiving the increasing embarrassments of his situation, he determined to resign; but retained his office till a successor could be appointed. The contest for the seals immediately recommenced, and the summer of 1755 was passed in intrigues and negotiations, which terminated in his resignation in November 1755, a few days before the opening of the third session." Coxe's Memoirs of Horatio lord Walpole.

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THIRD SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

*The King's Speech on Opening the Session.**] November 13, 1755. The King opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The present critical conjuncture of affairs, and my constant inclination to have the advice and assistance of my parliament on all important occasions, have made me desirous to meet you here as early as possible.

"Since your last session, I have taken such measures as might be most conducive to the protection of our possessions in America, and to the regaining of such parts thereof, as had been encroached upon, or invaded, in violation of the peace and contrary to the faith of the most solemn treaties.

"For this purpose, the maritime force of this kingdom has been got ready with the utmost application and expedition, and been principally employed: some land forces have been sent from hence to North America; and all proper encouragement has been given to the several colonies there, to exert themselves in their own defence, and in the maintenance of the rights and possessions of Great Britain.

"With a sincere desire to preserve my people from the calamities of war, as well as to prevent, in the midst of these troubles, a general war from being lighted up in Europe, I have been always ready to accept reasonable and honourable terms of accommodation; but none such have hitherto been proposed on the part of France. I have also confined my views and operations to hinder France from making new encroachments, or supporting those already made; to exert our right to a satisfaction for hostilities committed in a time of profound peace: and to disappoint such designs as, from various appearances and preparations, there is reason to think, have been formed against my kingdoms and dominions.

"By these methods, I have pursued the plan which I formerly pointed out to you, and for which I had the satisfaction to receive the strongest assurances of your vigorous support.

"What other power can object to proceedings so absolutely necessary to our own defence and security? My good brother the king of Spain sees with concern these differences; and the part which he generously takes in the common welfare of Europe makes him earnestly wish the preservation of the public tranquillity: he has also given assurances, that he will continue in the same pacific sentiments.

"In pursuing these great ends, I make no doubt of the vigorous and cheerful support of my parliament; and that, whilst I am engaged in this just and national cause, the affectionate assurances which they gave me the last session will be effectually made good. In consequence thereof, I have greatly increased my naval armaments, augmented my land forces in such a manner as might be the least burthensome, and have concluded a treaty with the empress of Russia, and another with the landgrave of Hesse Cassel, which shall be laid before you.

"Gentlemen of the House of Commons,

"I have ordered the proper officers to lay before you estimates for the services of the ensuing year; and likewise accompts of the extraordinary expences which have been made this year, in pursuance of the power given me by parliament. I see with great concern, that the necessary services before mentioned will require large supplies: I ask only such as shall be requisite for the effectual carrying on of those measures which shall be necessary to support what has been begun, according to your inclination, for the security of my

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* "On the 13th of November the session was opened, and the opposition to the Address, as well as to the Treaties, in subsequent debates, was extremely vigorous and well supported. On the side of the minority, Mr. Pitt and Mr. Legge particularly distinguished themselves; but the numbers in their favour were not so great as was expected.

"The new arrangements were soon declared. Mr. Fox at length gained his favourite object; he became secretary of state, and Mr. Pitt, who refused to act a subordinate part, and entered into opposition, was dismissed; the seals of Chancellor of the Exchequer were taken from Mr. Legge; the Grenvilles were removed, and the whole family phalanx united with the Tories and the partisans of Leicester-house. Sir George Lyttleton was appointed Chancellor of the Exchequer, lord Barrington secretary at war, Mr. Doddington treasurer of the navy, and Mr. Furnes, another of the late Prince's adherents, was made a lord of the treasury; the duke of Newcastle continued at the head of administration." Coxe's Memoirs of Horatio lord Walpole.

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kingdoms and dominions, and for the purposes which have been already mentioned to you. Whatever you grant shall, with the strictest economy, be applied to those uses only for which it shall be given.

"My Lords and Gentlemen,

"I rely upon your duty and good affections, which I have so often experienced. There never was a situation in which my honour, and the essential interests of Great Britain, called more strongly for your zeal, unanimity and dispatch."

*Debate in the Lords on the Address of Thanks.**] His majesty having retired, The Duke of *Marlborough* moved, that an humble Address be presented to his majesty, to return him the thanks of this House, for his most gracious Speech from the throne.—To express our just sense of his majesty's tender regard for his people, in being desirous to preserve them from the calamities of war; and, at the same time, in not yielding to any terms of accommodation that were not reasonable and honourable.—To declare our conviction of the high importance of the British possessions and rights in America to the trade and well-being of these kingdoms; and our gratitude to his majesty, for exerting his royal care and vigilance to protect them from invasion and insult, and to redress such encroachments as had been already made.—To express our surprise,

* Notes of Debate on the Address, November 13, 1755. From the Original in the hand-writing of Lord Chancellor Hardwicke.

Earl *Temple, contra.* 1. Objects to that part about the Electoral dominions—Not fit for this House to give these assurances—The nation is not in a condition to be able to make them good.

2 *Obj.* Some words that approve the two Treaties with Russia and Hesse Cassel—And also to approve the conduct of the ministry; and of the Regency during this summer—Those Treaties concluded in an improper and in a criminal manner—Vain and delusive appearances held out to the parliament, at the beginning of the last session, of the continuance of the public tranquillity—At the beginning of the preparations at Brest last summer, this nation defenceless—A superior force to admiral Boscawen sent by France after him; before Holbourne sailed—Foreign objects pursued last summer—The great attention to his majesty's German dominions; proceeding from the most generous principle in his majesty, the love of his native country, but encouraged and cherished by his ministers to make their court—*Principiis obsta.*

I do not lay it down as an invariable rule of politics that this great commercial kingdom shall never take any part in support of the continent—Had I lived at the beginning of the Grand Alliance, before Holland was a bankrupt country, and whilst Prussia was in the same scale with us, I should have concurred.

The question now is—a war upon the continent or not in defence of Hanover?—If it had not been predetermined to slight and insult parliament, it would have been impossible for the administration to take such a measure, previous to the consent of parliament—The ministers are to blame and not his majesty.

These measures may be represented in three different lights: 1. The first to be considered—a great war upon the continent: 2. A war for the defence of Hanover only: 3. The most delusive of all; a preventive measure.

1. Absolute destruction—impracticable.

2. As to the second—A high violation of the Act of Settlement, to which the present royal family owe the throne—This may possibly come before your lordships in your judicial capacity—If this prevails now, there never can be a time, in which the same thing must not be done—If the German dominions were annexed to this crown, I should be of the same opinion as I am now—It will tempt France to divert your strength and defence from your colonies and the naval war—Hanover has a constitutional defence of its own, by being part of the Germanic body—at worst can be only exposed to be ravaged and the quarters of a French army for a time—England ought not to lay down its army till and indemnified—Would much rather give a great sum to dedommage the king, than undertake the previous defence.

3. Consider it in the light of a preventive measure—These measures more likely to kindle a war upon the continent than to prevent it—Provoke the king of Prussia—How far can we go?—Subsidies are of a very growing and prolific nature—First the Bavarian subsidy; next the Saxon subsidy—These pretended to be for the desirable object of the election of a king of the Romans—That object was a phantom—is now disappointed and sunk into oblivion—Now another phantom raised of keeping your power upon the continent—How far can we go in pursuit of this phantom? You can set no bounds to this expence. The war, on the limited plan of a maritime and American war, will next year cost you not less than 7 millions—All our measures are considered by halves—half peace—half war—If we could be once left to stand upon national measures only, we might be able to extricate ourselves. I have the honour of the greatest authority concurring with me, if his health would permit him to attend.

Proposes an Amendment, to leave out the

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that in a time of full peace, and contrary to the faith of the most solemn treaties, hostilities should have been committed on the part of France; and to thank his majesty, for having increased his maritime armaments with so great application and expedition, and for augmenting his land forces, at the same time that his majesty has given encouragement to the colonies to exert their strength on this occasion, as their duty, interest, and common danger, oblige them to do.—To acknowledge the prudence and magnanimity of his majesty's views, to prevent a general war in Europe, and in confining his operations to those necessary ends which he has graciously declared to us.—To express our satisfaction in the pacific declarations of his Catholic majesty; which are so agreeable to the amity subsisting between the two crowns, and to the general welfare of Europe.—To promise his majesty our most zealous and vigorous concurrence and assistance, in this just and national cause; and that nothing shall be wanting, on our part, to make good those solemn assurances which were given to his majesty the last session; or to support his majesty in all such wise and necessary measures and engagements as his majesty may have taken, in vindication of the rights of his crown; or to defeat any attempt which may be made by France, in resentment for such measures; and to assist his majesty in disappointing or repelling all such enterprizes as may be formed against his kingdoms, or against any other of his dominions, although not belonging to the crown of Great Britain, in case they shall be attacked on account of the part taken by his majesty for the support of the essential interests of Great Britain.—To assure his majesty of our inviolable duty and affection to his sacred person; that we look upon the preservation of his government, and of the Protestant succession in his royal House, as the only security, under God, of our religion and liberties; that no menacing preparations or appearances shall deter us from vigorously acting up to these principles; and that, though we are far from desiring to injure or molest any of our neighbours, we are ready to sacrifice our lives and fortunes in the defence of his majesty, and of the possessions, commerce, and just rights, of Great Britain.

The Earl of *Marchmont* seconded the motion.

Earl *Temple* moved to leave out, in the last paragraph but one, these words; "or against any other of his dominions, although not belonging to the crown of Great Britain, in case they should be attacked on account of the part taken by his majesty for the support of the essential interests of Great Britain."

This motion occasioned a long debate, in which the duke of Bedford, the duke of Newcastle, the Lord Chancellor, and earl Granville spoke for the motion; and earl Temple, the earl of Pomfret, and lord Talbot against it: also the earl of Halifax spoke particularly against the treaties. But upon the question being put, the motion was agreed to without a division.

Protest against that part of the Address which relates to the King's German Dominions.] Upon the rejection of his motion, earl Temple entered the following Protest upon the Journals.

"Dissentient:

"1st, Because the words of the Address objected to, pledging the honour of the nation to his majesty in the defence of his electoral dominions, at this critical conjuncture, and under our present encumbered and perilous circumstances, tend not only to mislead his majesty into a fallacious and delusive hope, that they can be defended at the expence of this country, but seem to be the natural and obvious means of drawing on attacks upon those electoral dominions; thereby kindling a ruinous war upon the continent of Europe, in which it is next to impossible that we can prove successful, and under which Great Britain and the electorate itself may be involved in one common destruction.

"2dly, Because it is, in effect, defeating the intention of that part of the Act

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words, "and any other of his dominions although not belonging to the crown of Great Britain, in case they shall be attacked," &c.

Earl of *Rochford*, *pro.*
Earl of *Pomfret*, *con.*
Earl *Temple*, to vary his motion.
Lord President, to order.
Duke of *Bedford*, *pro.*
Earl of *Halifax*, *con.* The two Treaties strongly hinted at in the motion.
Duke of *Newcastle*, *pro.*
Lord *Bathurst*, *pro.*
Lord *Talbot*, *non liquet.*
Earl *Temple.*
Lord Chancellor, *pro.*
Earl *Temple.*

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of Settlement (the second great charter of England), whereby it is enacted, "That, in case the crown and imperial dignity of this realm shall hereafter come to any person not being a native of this kingdom of England, the nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the crown of England, without the consent of parliament." For if, at this juncture, under all the circumstances of our present quarrel with France, to which no other prince in Europe is a party, and in which we do not call for, nor wish to receive, the least assistance from the electorate of Hanover, it shall be deemed necessary, in justice and gratitude, for this nation to make the declaration objected to, there never can be a situation, or point of time, when the same reasons may not be pleaded, and subsist in their full force; nor can Great Britain ever engage in a war with France, in the defence of her most essential interests, her commerce, and her colonies, in which she will not be deprived of the most invaluable advantages of situation, bestowed upon her by God and nature, as an island.

"3dly, Because, without any such previous engagement, his majesty might safely rely upon the known attachment of this House to his sacred person, and upon the generosity of this country, famous and renowned in all times for her humanity and magnanimity, that we would set no other bounds to an object so desirable, but those of absolute necessity and self-preservation, the first and the great law of nature.

"TEMPLE."

The Lords' Address of Thanks.] The Address agreed to was as follows:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, humbly beg leave to return your majesty our unfeigned thanks for your most gracious Speech from the throne.

"Your majesty's paternal regard for the welfare and prosperity of your people, which has been so conspicuous on all occasions, has in this critical conjuncture been demonstrated by your majesty's earnest desire to preserve them from the calamities of war, and by your royal firmness, in not yielding to any terms of accommodation that were not reasonable and honourable.

"When we consider the high importance of the British possessions and rights in America, to the commerce and well-being of these kingdoms, we cannot but reflect with concern, as well as resentment, that in a time of full peace, and contrary to the faith of the most solemn treaties, so many encroachments should have been committed on the part of France. Nothing can exceed our surprise at such conduct, but our gratitude to your majesty for so powerfully exerting your royal care to protect your colonies from such invasions and insults, and to redress those encroachments which had been so unjustly made.

"If any power could be so much mistaken, as to imagine that your majesty, or your parliament, would remain unactive spectators of such unprovoked hostilities, they must before now have been convinced of their error.

"We thankfully acknowledge your majesty's wisdom and goodness, in increasing your maritime armaments with so great application and expedition, and in augmenting your land forces with so much regard to the ease of your people, whilst you were providing for their safety; and in having, at the same time, generously given encouragement to that great body of your majesty's brave and faithful subjects, with which your American provinces happily abound, to exert their strength on this important occasion, as their duty, interest, and common danger oblige, and strongly call upon them to do.

"Your majesty has sufficiently shewn, that no motives of ambition, or of fomenting new troubles, have been the grounds of your conduct. Your prudence and magnanimity have been manifested to all the world, by your evident disposition to prevent a general war from breaking out in Europe, and by confining your views and operations to those salutary and necessary ends, which your majesty has been graciously pleased to declare to us.

"It is with pleasure we observe the pacific declarations of his Catholic majesty, which are so agreeable to the amity and good correspondence subsisting between the two crowns, and to the general welfare of Europe.

"We should fall short of that duty which we owe to your majesty and our country, if we did not, with the greatest sincerity and cheerfulness, promise your majesty our most zealous and vigorous concurrence and assistance in this just and national cause. Nothing shall be wanting

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on our part, to make good those solemn assurances which were given to your majesty by your parliament in their last session. We look upon ourselves as obliged by the strongest ties of duty, gratitude, and honour, to stand by and support your majesty in all such wise and necessary measures and engagements, as your majesty may have taken in vindication of the rights of your crown; or to defeat any attempt which may be made by France, in resentment for such measures; and to assist your majesty in disappointing or repelling all such enterprizes as may be formed, not only against your kingdoms, but also against any other of your dominions, although not belonging to the crown of Great Britain, in case they should be attacked on account of the part which your majesty has taken for maintaining the essential interests of your kingdoms.

"Animated with these great and interesting considerations, we beg leave from the bottom of our hearts, to assure your majesty, of our inviolable duty and affection to your sacred person; and that we look upon the preservation of your majesty's government, and of the Protestant succession in your royal House, as the only security under God, of our religion and liberties. If there are any who have vainly flattered themselves, that menacing appearances or preparations could deter us from faithfully and vigorously acting up to these principles, our unshaken conduct shall demonstrate how much they have been deceived: and that though we are far from desiring to injure or molest any of our neighbours, we are ready to sacrifice our lives and fortunes in the defence of your majesty, and of the possessions, commerce, and just rights of Great Britain."

The King's Answer.] The King gave this Answer:

"My Lords;

"I give you my hearty thanks for this very dutiful and affectionate Address. I see, with the greatest satisfaction, the zeal you express for my person and government, and for the true interest of your country, which I am determined to adhere to. The assurances you give me for the defence of my territories abroad, are a strong proof of your affection to me, and regard for my honour. Nothing shall divert me from pursuing those measures which may effectually maintain the possessions and rights of my kingdoms, and procure reasonable and honourable terms of accommodation."

*Debate in the Commons on the Address of Thanks.**] The Commons having returned to their House,

The Earl of *Hillsborough* moved, "That an humble Address be presented

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* The Hon. Horace Walpole to the Hon. Henry Seymour Conway. Arlington Street, Nov. 15, 1755.

"I promised you histories, and there are many people that take care I should have it in my power to keep my word. To begin in order, I should tell you, that there were 289 members at the Cockpit meeting, the greatest number ever known there: but Mr. Pitt, who is too great a general to regard numbers, especially when there was a probability of no great harmony between the commanders, did not however postpone giving battle. The engagement was not more decisive than long: we sat till within a quarter of five in the morning; an uninterrupted serious debate from before two. Lord Hillsborough moved the Address, and very injudiciously supposed an opposition. Martin, Legge's secretary, moved to omit in the Address the indirect approbation of the Treaties, and the direct assurances of protection to Hanover. These questions were at length divided; and against Pitt's inclination, the last, which was the least unpopular, was first decided by a majority of 311 against 105. Many then went away; and on the next division the numbers were 290 to 89. These are the general outlines. The detail of the speeches, which were very long, and some extremely fine, it would be impossible to give you in any compass. On the side of the opposition (which I must tell you by the way, though it set out decently, seems extremely resolved) the speakers (I name them in their order) were: the third Colebrook, Martin, Northey, sir Richard Lyttelton, Doddington, George Grenville, sir F. Dashwood, Beckford, sir G. Lee, Legge, Potter, Dr. Hay, Geo. Townshend, lord Egmont, Pitt, and admiral Vernon: on the other side were, lord Hillsborough, O'brien, young Stanhope, Hamilton, Alstone, Ellis, lord Barrington, sir G. Lyttelton, Nugent, Murray, sir T. Robinson, my uncle, and Mr. Fox. As short as I can, I will give you an account of them. Sir Richard, Beckford, Potter, G. Townshend, the Admiral of course, Martin, and Stanhope, were very bad: Doddington was well, but very receding: Dr. Hay by no means answers his reputation; it was easy, but not striking. lord Egmont was doubling, absurd, and obscure. Sir G. Lee and lord Barrington were much disliked: I don't think, so deservedly. Poor Arthur [the Speaker] was mad, and spoke ten times to order. Sir George [Lyttleton] our friend, was dull and timid. Legge was the latter. Nugent roared, and sir Tho-

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to his majesty, to return his majesty the thanks of this House for his most gracious Speech from the throne; to congratulate his majesty upon his happy return into these kingdoms; to express our dutiful acknowledgements to his majesty for his care and endeavours to preserve to his people the blessings of peace; and when terms consistent with the true interest of this kingdom, could not be obtained, for the great expedition with which his majesty caused his naval force to be got

mas rumbled. Mr. Fox was extremely fatigued, and did little. Geo. Grenville's was very fine and much beyond himself; and very pathetic. The Attorney General [Mr. Murray] in the same style, and very artful, was still finer. Then there was a young Mr. Hamilton* who spoke for the first time, and was at once perfection: his speech was set, and full of antitheses, but these antitheses were full of argument: indeed his speech was the most argumentative of the whole day; and he broke through the regularity of his own compositions, answered other people, and fell into his own track again with the greatest ease. His figure is advantageous, his voice strong and clear, his manner spirited, and the whole with the ease of an established speaker. You will ask, what could be beyond this? Nothing, but what was beyond what ever was, and that was Pitt. He spoke at past one, for an hour and 35 minutes; there was more humour, wit, vivacity, finer language, more boldness, in short, more astonishing perfections than even you, who are used to him, can conceive. He was not abusive, yet very attacking on all sides: he ridiculed my lord Hillsborough, crushed poor sir George, terrified the Attorney, lashed my lord Granville, painted my lord of Newcastle, attacked Mr. Fox, and even hinted up to the duke [of Cumberland]. A few of the Scotch were in the minority, and most of the princess's people, not all: all the duke of Bedford's in the majority. He himself spoke in the other House for the Address (though professing incertainty about the Treaties themselves), against my lord Temple and lord Halifax, without a division. My lord Talbot was neuter; he and I were of a party: my opinion was strongly with the opposition; I could not vote for the Treaties; I would not vote against Mr. Fox. It is ridiculous, perhaps, at the end of such a debate, to give an account of my own silence; and as it is of very little consequence what I did, so it is very unlike me to justify myself. You know how much I hate professions of integrity, and my pride is generally too great to care what the generality of people say of me: but your heart is good enough to make me wish you should think well of mine.

"You will want to know what is to be the fate of the ministry in opposition; but that I can't tell you. I don't believe they have

* William Gerard Hamilton. It was this speech which, not being followed, as was naturally expected, by repeated exhibitions of similar eloquence, acquired him the name of Single Speech Hamilton.

determined what to do, more than oppose, nor that it is determined what to do with them, though it is clear that it is very humiliating to leave them in place, you may conceive several reasons why it is not eligible to dismiss them. You know where you are, how easy it is to buy an opposition who have not places; but tell us what to do with an opposition that has places. If you say, Turn them out; I answer, That is not the way to quiet any opposition, or a ministry so constituted as ours at present. Adieu." Works of Lord Orford, vol. 5, p. 41.

The Hon. Horace Walpole to Richard Bentley, Esq. Arlington Street, November 16, 1755.

"The new opposition attacked the Address.—Who are the new opposition?—Why, the old opposition, Pitt and the Grenvilles; indeed, with Legge instead of sir George Lyttelton. Judge how entertaining it was to me, to hear Lyttelton answer Grenville, and Pitt Lyttelton! The debate, long and interrupted as it was, was a great deal of it extremely fine: the numbers did not answer to the merit: the new friends, the Duke of Newcastle and Mr. Fox, had 311 to 105. The bon-mot of fashion is, that the staff was very good, but they wanted private men. Pitt surpassed himself, and then I need not tell you that he surpassed Cicero and Demosthenes. What a figure would they, with their formal, laboured, cabinet orations, make vis-à-vis his manly vivacity and dashing eloquence at one o'clock in the morning, after sitting in that heat for eleven hours! He spoke above an hour and a half, with scarce a bad sentence: the most admired part was a comparison he drew of the two parts of the new administration, to the conflux of the Rhone and the Saone; the latter a gentle, feeble, languid stream, languid but not deep; the other a boisterous and overbearing torrent; but they join at last; and long may they continue united, to the comfort of each other, and to the glory, honour, and happiness of this nation!" Lord Orford's Works, vol. 5, p. 346.

"It was in this day's debate that Mr. Stanhope, son to the earl of Chesterfield, spoke for the first time. 'His father,' says Dr. Maty, 'took infinite pains to prepare him for his first appearance as a speaker. The young man seems to have succeeded tolerably well upon the whole, but on account of his shyness was obliged to stop, and, if I am not mistaken, to have recourse to his notes. Lord Chesterfield used every argument in his power to comfort him, and to inspire him with confidence and

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ready, and the resolution his majesty has shewn, at the hazard of all events, to defend the British dominions in America, not only encroached upon, but openly attacked, by the French in a time of full peace, and farther threatened and endangered by a large embarkation of their troops from Europe; to applaud his majesty's wisdom and moderation in being always desirous, though so highly provoked, to listen to a reasonable accommodation, and endeavouring to avoid the calamities of a general war, by confining his operations to measures necessary for defence; a conduct which must demonstrate to the other powers of Europe the uprightness of his majesty's intentions, and convince them that he is not the aggressor; to express our satisfaction in the king of Spain's generous concern for the common welfare of Europe, and the assurances he has given of his desire to preserve the public tranquillity; to assure his majesty that this House will vigorously and cheerfully support his majesty in all such wise and necessary measures and engagements as his majesty may have taken to vindicate the just rights and possessions of his crown, and to guard against any attempts which France may make, on account of his majesty not having submitted to their unjustifiable encroachments; and that we think ourselves bound in justice and gratitude to assist his majesty against insults and attacks that may be made upon any of his majesty's dominions, though not belonging to the crown of Great Britain, in resentment of the part his majesty has taken in a cause wherein the interests of this kingdom are immediately and so essentially concerned; to express our thanks to his majesty for his care in directing the necessary augmentation of his land forces to be made in the manner least burthensome to his people; to assure his majesty, that this House will grant his majesty such supplies as shall be found necessary in this great conjuncture; and, in all our deliberations, manifest to the world, that we have sincerely at heart the honour of our king, the support of his government, and the true interest of this country:"

And an Amendment being proposed to be made to the question, by leaving out the words, "and to guard against any attempts which France may make on account of his majesty not having submitted to their unjustifiable encroachments; and that we think ourselves bound in justice and gratitude to assist his majesty against insults and attacks that may be made upon any of his majesty's dominions, though not belonging to the crown of Great Britain, in resentment of the part his majesty has taken in a cause wherein the interests of this kingdom are immediately and so essentially concerned;" an Amendment was proposed to be made to the said Amendment, by leaving thereout the words, "and that we think ourselves bound in justice and gratitude to assist his

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courage to make some other attempt; but I have not heard that Mr. Stanhope ever spoke again in the House.'"

"I heartily congratulate you upon the loss of your political maidenhead. I hear that you were stopped for some time in your career; but recovered breath, and finished it very well. I am not surprised, nor indeed concerned at your accident; for I remember the dreadful feeling of that situation in myself; and as it must require a most uncommon share of impudence to be unconcerned upon such an occasion, I am not sure that I am rather glad you stopped. You must therefore now think of hardening yourself by degrees, by using yourself insensibly to the sound of your own voice, and to the act (trifling as it seems) of rising up and sitting down again. Nothing will contribute so much to this as committee work of elections at night, and of private bills in the morning. There, asking short questions, moving for witnesses to be called in, and all that kind of small ware, will soon fit you to set up for yourself. I am told that you are much mortified at your accident; but without reason; pray let it rather be a spur than a curb to you. Persevere, and depend upon it, it will do well at last. When I say persevere, I do not mean that you should speak every day, nor in every debate. Moreover, I would not advise you to speak again upon public matters for some time, perhaps a month or two; but I mean, never lose sight of that great object; pursue it with discretion, but pursue it always. You know I have always told you, that speaking in public was but a knack, which those who apply to most will succeed in best. Two old members, very good judges, have sent me compliments upon this occasion; and have assured me, that they plainly find it *will do*: though they perceived, from that natural confusion you were in, that you neither said all, nor perhaps what you intended. Upon the whole, you have set out very well, and have sufficient encouragement to go on. Attend therefore, assiduously, and observe carefully, all that passes in the House; for it is only knowledge and experience that can make a debater." Lord Chesterfield's Letters to his son.

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majesty against insults and attacks that may be made upon any of his majesty's dominions, though not belonging to the crown of Great Britain, in resentment of the part his majesty has taken in a cause wherein the interests of this kingdom are immediately and so essentially concerned." And the question being put, that the said last-mentioned words stand part of the proposed Amendment; the House divided; Ayes 105, Noes 311. So it passed in the negative.

Then the question being put, that the words, "and to guard against any attempts which France may make on account of his majesty not having submitted to their unjustifiable encroachments," stand part of the question; the House divided; Ayes 290, Noes 89. So it was resolved in the affirmative.

The Commons' Address of Thanks.] The Address agreed to was as follows:

"Most Gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Speech from the throne; and to congratulate your majesty upon your safe and happy return into these kingdoms.

"With hearts full of gratitude we offer to your majesty our dutiful acknowledgements for your paternal care and endeavours to preserve to your people the blessings of peace; and when terms consistent with the true interest of this kingdom could not be obtained, for the great expedition with which your majesty caused your naval force to be got ready; and the magnanimity and resolution your majesty has shewn, at the hazard of all events, to defend the British dominions in America, not only encroached upon, but openly attacked, by the French, in a time of full peace, and further threatened and endangered by a large embarkation of troops from Europe.

"We are truly sensible of your majesty's great wisdom and moderation, in being desirous, though so highly provoked, to listen to a reasonable accommodation; and in endeavouring to avoid the calamities of a general war, by confining your operations to measures necessary for defence; a conduct which must demonstrate to the other powers of Europe, the uprightness of your majesty's intentions, and convince them, that your majesty is not the aggressor.

"The king of Spain's generous concern for the common welfare of Europe, and the assurances he has given your majesty of his desire to preserve the public tranquillity, give us the greatest satisfaction.

"We beg leave to assure your majesty, that your dutiful and faithful Commons will vigorously and cheerfully support your majesty in all such wise and necessary measures and engagements, as your majesty may have taken, to vindicate the just rights and possessions of your crown, and to guard against any attempts which France may make, on account of your majesty's not having submitted to her unjustifiable encroachments; and that we think ourselves bound in justice and gratitude to assist your majesty against insults and attacks, that may be made upon any of your majesty's dominions, though not belonging to the crown of Great Britain, in resentment of the part your majesty has taken in a cause, wherein the interests of this kingdom are immediately, and so essentially concerned.

"We are humbly thankful to your majesty, for your tender care in directing the necessary augmentation of your land forces to be made in the manner the least burthensome to your people.

"We assure your majesty, that your faithful Commons will grant your majesty such supplies as shall be found necessary in this great conjuncture; and that we will, in all our deliberations, manifest to the world, that we have sincerely at heart the honour of our king, the support of his government, and the true interest of this country."

The King's Answer.] The King gave this Answer:

"Gentlemen,

"I thank you for this dutiful and loyal Address. You may be assured, although I wish for nothing more than a safe and honourable accommodation, I am determined to protect and maintain the valuable and undoubted rights and possessions of my crown.

"Your assurances, that you will assist me in the defence of my foreign dominions, if they should be attacked, on account of the measures I am pursuing for the true interest of these kingdoms, are such proofs of your affection to me, and of your regard to my honour, as give me the greatest satisfaction."

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*The King's Message to both Houses concerning Relief for the Sufferers at Lisbon by the Earthquake.**] November 28. The king sent down the following Message to both Houses:

"George *R.*

"His majesty having received from his ambassador at Madrid a certain account of the fatal and deplorable event which happened at Lisbon on the 1st instant by an earthquake, which has laid waste almost the whole city, and destroyed many thousands of the inhabitants, in consequence whereof those who remain must be reduced to the utmost distress; and his majesty, being moved with the greatest concern for so good and faithful an ally as the king of Portugal, and with the utmost compassion for the distresses to which that city and kingdom must be reduced, wherein great numbers of his majesty's own subjects were resident and many more interested; recommends to the House of Lords the consideration of this dreadful and extensive calamity, which cannot fail deeply to affect the hearts of all persons who have any sense of religion or humanity; and desires the concurrence and assistance of the House of Lords, in sending such speedy and effectual relief as may be suitable to so afflicting and pressing an exigency. G. *R.*"

This Message produced an unanimous Address; and on the 8th of December the Commons resolved "That 100,000*l.* be granted to his majesty, upon account for or towards enabling his majesty to defray the expences which have been, or may be incurred by his majesty in giving assistance to the distressed people of Portugal, and our unhappy fellow subjects residing and trading there."—As they stood in need of necessaries of life as well as the money, great part of the sum was sent in rice, corn, flour, a large quantity of beef from Ireland, and many other necessaries for their relief. This supply, which was sent when the people of England were themselves greatly distressed for want of corn, came very seasonably to the Portuguese; and that king ordered Mr. Castres, the British resident at his court, to give the preference in the distribution to the British subjects who had suffered by the late earthquake. Accordingly, about a thirtieth part of the provisions, and 2000*l.* in money, was set apart for that purpose; and his Portuguese majesty returned his thanks, in very warm terms, to the British crown and nation.

Debate in the Commons on the Bill for the Encouragement of Seamen and speedily Manning the Navy.] December 2. Lord *Pulteney* moved for leave to bring in a Bill for the encouragement of Seamen, and the more speedy and effectual Manning his majesty's Navy. Upon which the following Debate ensued:

Mr. *George Haldane:*

Sir; I am very sorry to hear such a motion made at this time, because it is one which, I think, we cannot at present agree to, and our putting a negative upon it, or even putting it off by means of the previous question, may discourage many seamen from entering into his majesty's service, as it may give them a suspicion, that we intend to deprive them of the advantages they were intitled to during the last war, and will be, by the laws now in being, again entitled to, as soon as his majesty shall be pleased to declare war against

* "Not only the public of Great Britain, but the whole world, was thrown into the deepest consternation by the dreadful earthquake which, on the 1st of November, shook all Spain and Portugal, and many other places of Europe, and laid the city of Lisbon in ruins. By the first accounts received in Great Britain of this calamity, there was great reason to apprehend, that the consequences might affect even public credit, considering the vast interest which England and English merchants had in the Portuguese trade. Affairs, however, did not prove to be so dismal as they were represented at first. The loss of the English was inconsiderable, their quarter and warehouses having suffered the least during the dreadful visitation; and many of their merchants, with their families, were on that day (which was a holiday) at their country houses, by which their persons escaped the danger. But nothing could be more awful, or more tremendous, than the aspect of the city of Lisbon itself upon this mournful occasion. A devouring conflagration, partly fortuitous or natural, and partly raised by villains, who enjoyed the general calamity by plundering their fellow creatures, attended the shocks, and finished the ruin which they had begun. The number of persons who lost their lives, were variously reported, for some accounts made them far greater than they were; perhaps those came nearest the truth, who reckoned them at about 10,000. The principal shock began at three quarters past nine in the morning, and lasted near seven minutes, throwing down the most stately edifices in the city, particularly their religious houses, which were there numerous and rich." Tindal.

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any kingdom or state in Europe. I believe, no gentleman desires that his country should be involved in war, if it can be possibly avoided, and every gentleman, I believe, knows, that a negociation is still carried on for accommodating all our differences with the French in an amicable manner, and that they are now using all their art, to make us be looked on, in case of a rupture, as the aggressors in the war. In such circumstances, it is surely our interest to proceed with caution and moderation, and to avoid giving success to their artful conduct by any precipitate measure on our side. I shall not say, that we have occasion for any allies, in case it should at last come to an open war, because, I hope we shall be able to confine it to a maritime and American war; but surely, we ought to prevent, if possible, our enemy's having any allies in the war, and consequently we ought to avoid giving them any plausible pretence to call for the assistance of those powers that are actually engaged with them in a defensive alliance. And it is certain, that his majesty is not only the best, but the only judge what measures are most proper for preventing its being in the power of France to persuade any court in Europe that we have been the aggressors in the war. It is, indeed, an affair which we cannot any way pretend to judge of, because we know nothing of the present state of the negociation, or how the other powers of Europe stand affected with regard to the present disputes between France and us in America; and even supposing we did, we ought not to allow the bringing in of such a Bill as this, because it would be, in my opinion, a parliamentary declaration of war, which is absolutely inconsistent with our constitution, and would be an encroachment upon one of the most undoubted and most necessary prerogatives of the crown.

This encroachment, Sir, would, in the present case, be the more flagrant, as there is not the least occasion for it: every British seaman, at least every one of them that has ever read or heard of the act passed in 1739, must know, that they have the sole right to all prizes which they shall have a concern in taking when employed in his majesty's ships of war, after war has been once declared by his majesty; and even with regard to privateers they know, that the owners and the seamen on board of such privateers have by the same act the sole right to all prizes that shall be taken by such privateers after they have received their commissions; and that as soon as war is declared, the lords commissioners of the admiralty are obliged to issue commissions to all such as shall apply for them in the proper and usual manner. This sole right, they know, is already vested in them by act of parliament, and that without any deduction, except the fees of the admiralty court where the prize is condemned, and those fees, in his majesty's plantations or dominions abroad, not to exceed 10*l.* for a prize under 100 tons burthen, nor 15*l.* for a prize of 100 tons, or any greater burthen: therefore no seaman can, from what is proposed, have any greater temptation to enter into his majesty's service, than what he has from the law as it now stands; nor can our bringing in such a Bill, or even our passing it into a law, encourage any one seaman to enter voluntarily into his majesty's service, who is not already inclined to do so as soon as he can find an opportunity.

Perhaps it may be true, Sir, that the law which was passed in 1739, may stand in need of some explanations and amendments, but no explanation or amendment can give the seamen a better or a more extensive right to their share of the prizes than they have by that law as it now stands; and if methods can be found for making the recovery of that right more expeditious, or less expensive, shall we not have time enough to contrive proper methods for this purpose after the declaration of war? For if we should be obliged at last to come to that extremity, it is highly probable the case will happen before the end of this session; and if the case should happen, I hope we shall have the assistance of the noble lord and the hon. gentleman who have made and seconded this motion; for though a negative should now be put upon their motion, I am persuaded, they will join heartily and sincerely in every method that can be thought of for encouraging our brave seamen, and for preventing, as much as possible, the necessity of pressing; which I must allow is often attended with great hardships upon the pressed men, and sometimes with irregularities in the press-masters; but both the hardships and irregularities are, I know, generally exaggerated, for I am sure, that the officers take as much care as possible to prevent both. I, indeed, most heartily wish, that the pressing of men just upon their return from a long voyage, or after they are engaged in the merchant or pri-

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vateer service, could by any means be prevented: but as for those seamen that lurk and loiter at home, and live, perhaps, at a most extravagant rate, upon the credit allowed them by their landlords, when their country stands in need of their service, I must say, that I think they deserve as much to be pressed into his majesty's sea service, as vagabonds deserve to be pressed into his majesty's land service.

For both these services, Sir, there must always be pressing when the honour and safety of our country render it necessary to have soldiers or sailors, and our government cannot find a sufficient number that will enter voluntarily. The only reason why pressing for sailors has been more frequent and more complained of than pressing for soldiers, is, because from the situation of this country, the former becomes much oftner necessary, and those that are liable to be pressed into the sea-service have generally a much better character than those that are liable to be pressed into the land service; because we have not for many years been obliged to make any man liable to be pressed into the latter, but such as have something of the vagabond in their character. But if an invasion, or other such danger, should oblige us to raise a numerous army, we should be under a necessity to press men of a better character into the land service, or to oblige all the men fit for the service to draw lots, and even in that case, those upon whom the lot fell, must be pressed, if they refused to serve voluntarily. From hence I am convinced, that it is impossible to prevent the necessity of pressing, according to the present method, for the sea service, any other way than by enabling the government to have always not only a list of all the men in the British dominions fit for that service, but also a knowledge where to call for them, and a power to compel all of them to serve in their turn; and it has been hitherto thought, that this would be attended with greater inconveniences than the method we now have of providing for the sea service. Whilst we pursue this method, there is no way for lessening the inconveniences attending it, but by good usage, and other advantages, to induce as many as possible to qualify themselves for the sea service, and to enter voluntarily when the government has occasion for their service; and no law can be, I think, more effectual for this purpose, than that which was passed in the year 1739.

Therefore, Sir, if any amendments can be made to that law, I shall most readily agree to them, when it becomes convenient for us to take that subject into our consideration; but to enter upon it at present, would look so much like a menace, that the French would think themselves bound in honour to break off all negociations with us, and all the courts of Europe would consider us as the sole occasion of the war which would necessarily ensue; for which reason, I hope, the noble lord will withdraw his motion, and thereby prevent any gentleman's being obliged, contrary to his inclination, to give it a negative.

Mr. *Gilbert Elliot*:

Sir; the fact I find is not, nor indeed can it be disputed, that we have lately seized and brought into our own ports, a considerable number of the French trading ships, and it can be as little disputed, that it would be a great encouragement for seamen to enter into his majesty's service, were they assured that all those ships so taken, or to be taken, were to belong to them, and to be disposed of for their benefit. As war is not declared, and as I I have not heard it said that they are taken by way of reprisal, I do not indeed know, whether I ought to call them prizes or no, but I hope we have some view in taking them, and whatever that view may be, surely the more of them we do take the more that view will be answered; and as it is equally certain that the more ships of war or cruizers we can send to sea, the more ships we shall be able to take from the French; therefore for answering that view which our ministers propose, and which of course must be a wise one, as well as for preventing the oppressive method of forcing men into his majesty's service, such a Bill as is now moved for ought to be passed into a law.

Whatever view our ministers may have, Sir, and whether that view be a wise one or no, it is certain that no press for seamen was ever carried on in a more rigorous manner, nor did any press before, I believe, last so long as that which began with the beginning of this year, and has ever since continued, I may say, without intermission. It has spread through all parts of the British dominions, and in most parts, I believe, very uncommon methods have been taken for carrying it on. In one part of the united kingdom I know that a new and extraordinary method has been practised. The military power

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has, indeed, often been employed to be assisting the civil magistrate, and as often as it does happen I am always sorry to hear it; but the military power was never before employed to be assisting to our press-gangs; yet this has been lately the case in Scotland. Towns and villages have been invested by our regular troops, with parties of soldiers patroling in the streets, and sentries, with screwed bayonets, placed at every door, to prevent any person's going out, whilst the press-gang entered and searched every hole and corner within. Even churches have been surrounded in the time of divine service, the people terrified and interrupted in their devotion, and men seized as they came out from attending the public worship established by the laws of their country.

This, Sir, was the more surprising to the people of that country, as they still have some regard for religion, and were never, before the Union, exposed to the misfortune of being pressed into the sea service; and I must say, that they were far from deserving any such severity; for a reward was offered by almost every city and sea port in that part of the island, for encouraging seamen to enter into his majesty's service; and I believe they did furnish more than their quota, in proportion to their trade, or to their number of people. Yet nevertheless many honest men were forced away from their families by this method of pressing, and some who were really no seamen; nor could they meet with any relief, though complaints were made and petitions presented in their favour.

Whether the same methods have been practised in other parts of the kingdom is what I do not know, Sir, but whether they have or no, it is certain that pressing, even in the most gentle method, is every where attended with oppression, and is often the cause of fatal accidents, besides the great number of brave and able seamen that fall a sacrifice to the distempers brought upon them by their being crowded and long confined in tenders, or other noisome dungeons. And though the method of pressing has of late years been often practised, even in time of peace, yet I think it has never been expressly authorised by law: in this country, and indeed in any free country, nothing can excuse it but the most urgent necessity which necessity we ought to prevent by every method that can be contrived. One of the best methods ever invented was by that law which was passed in the year 1739; but little did the promoters of that law imagine, little could they imagine, that ever any orders would be issued to the king's ships to seize the trading ships of any nation without a declaration of war, and without authorizing any of our courts of admiralty to declare the ships so taken to be lawful prizes, without which no man concerned in the capture could have a title to the whole, or to any part of the ship or cargo. The proceeding in such a manner was a refinement in politics which all former ages had left to the deep politicians of this age and nation, and a refinement which our honest plain tars could no way comprehend.

It was this, Sir, that made pressing so necessary, for when our experienced seamen heard that none of the ships taken were to be condemned as lawful prizes, and consequently that they were to have no share in the produce of the ship or cargo they had perhaps ventured their lives for, they naturally and very sensibly reasoned with themselves, what signify the rewards offered for entering into the government service, since we can expect nothing but our pay; whereas if we can keep out of the way of being pressed, our crimps will procure us employment in the merchant service, and by the advanced wages we shall make more by one short voyage in that service, than we can make by the premium and wages allowed by the government, besides being free from the danger of being killed or wounded in the service? Thus they certainly reasoned with themselves, Sir, and this was the true reason why so few of them entered voluntarily into the king's service. Whereas, had the first ship taken from the French been declared lawful prize, and ship and cargo delivered to the agents of the captors, to be sold for their benefit, such numbers of able and expert seamen would have been thereby induced to enter voluntarily into the king's service, that, I am convinced, we should have had little occasion for pressing. The sea service would then have been such a sort of lottery in which there was more prizes than blanks, and every one would have hoped for the highest prize, as we find most people do in our land lotteries; but by the method we pursued, we made the sea-service a lottery which was all blanks and no prizes, and consequently a lottery to which no man in his right senses would voluntarily become a subscriber. Nay, farther,

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by refusing to condemn and dispose of the prizes for the benefit of the captors, we raised a spirit of resentment among all our sailors, which made them resolve to avoid the government service if possible: they think they have a right to a share of every prize they take: they could not comprehend the meaning of our fine-drawn politics upon this occasion; but on the contrary, they looked upon it as a deceitful design to deprive them of what they had a right to, a right which they had acquired by the loss of their blood, and at the risk of their lives.

We cannot, therefore, wonder at our seamen shewing so much reluctance to the government service upon the present occasion, notwithstanding the general spirit of resentment against the treatment we have received from France; and as little can we wonder at their not being able to comprehend the meaning of our taking French ships, and leaving both ship and cargo to lie rotting in our harbours; for it is really beyond the comprehension of most men in the kingdom: it is well known that the cargoes of many of these ships consist of perishable goods, and must by this time have become quite useless, or will very soon become so: no sort of goods can improve by lying long on board the ship; and even the ship herself must grow every day worse by lying idle in the harbour. What advantage, then, can we expect by keeping these ships and cargoes undisposed of? Can we suppose that the French court would look upon our selling their ships, and giving the price to the captors, as a greater insult than that of seizing them? And if a new treaty should be set on foot, could we expect that they would be satisfied with a restitution of the ships and cargoes, after both have been spoiled by lying in our harbours? Or if a declared war should ensue, would these ships and cargoes then sell for as much as they would have sold for, had they been disposed to the highest bidder as soon as brought into any of our harbours?

In short, Sir, it is impossible, in my opinion, to point out any advantage we can reap by not disposing of these ships as soon as possible: on the contrary, let the event as to war or peace be what it will, our keeping them till both ship and cargo are damaged, if not destroyed, must be a national loss; and if the event of the war should be against us, which God forbid! it may be a double loss, because we may be obliged to restore the value of the ship and cargo as it was when taken, though we got nothing by either. This fine-drawn piece of politics must therefore in all events be a disadvantage to us; and the necessity it has laid us under of taking such rigorous methods to press seamen into the government service, is a disadvantage which we have already felt, and must feel every day more and more, until such a Bill as is now moved for be passed into a law, and dispersed through every part of the British dominions, which I hope it will be as soon as it can be printed. By this means all the seamen in the kingdom will be apprized, that justice is to be from henceforth done them, and that all the ships taken from the French are to belong to the captors, and to be disposed of to the best advantage for their benefit, whether war be in a formal manner declared or no. This will remove that spirit of resentment which has hitherto rendered them so resolute not to enter voluntarily into the government service, and then the motives of self-interest, as well as of the public interest, will have their due weight, which will certainly diminish at least the necessity we are now under of pressing seamen into the government service; and if it should but in the least degree diminish that necessity, it ought to be a prevailing argument for our bringing in and passing, as soon as possible, such a Bill as is now proposed.

As to what negociations we are now carrying on, Sir, I do not pretend to know any thing of them; but this I know, that we have often, of late years, been negociating when we ought to have been fighting; and if we may judge from the uniform conduct of the court of France in all times past, we must conclude, that it is in vain for us to expect justice by negociation: that court never did justice to us, or indeed to any other nation, till they were drubbed into it, and this we have as yet a power to do, if our naval strength be properly and duly exerted; but this power we cannot long enjoy, if we go on negociating, as we have done for some years, whilst France has been encroaching upon our plantations, and upon our trade in every part of the known world. And as to what the other powers of Europe may think of the present disputes between France and us, it is certain that, if they were to consider only the circumstance of our seizing and detaining the French ships, and clapping their seamen up in prison, without considering the preceding

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behaviour of France towards us, every power of Europe would look upon that circumstance as an act of hostility, and consequently would conclude us to be the aggressors. But I hope all the powers of Europe have a more impartial way of thinking: I hope they will consider all preceding circumstances, and examine who it was that committed the first encroachment or aggression; and if they do this, they will find that France has been incroaching upon us, and even committing hostilities against us, both in the East and West-Indies, almost ever since that which was called the definitive treaty of Aix-la-Chapelle, a place which seems to be ominous to Europe, as an infamous treaty of peace was concluded at the same place in the year 1668. Therefore, every court in Europe, that judges impartially, must conclude, that we had a right to condemn and appropriate as well as to seize those ships, by way of reprizal for the expence we had been, or might be put to for vindicating our rights, and repelling those incroachments that had been made upon us; and as to any court in Europe that shall judge partially in favour of France, the best way, and indeed the only way, to prevent their openly joining against us was, and still is, to shew, that we will vindicate our rights with vigour against whosoever shall encroach upon them.

Thus, Sir, it is evident that, if we had condemned and appropriated to the captors every one of those ships, with her cargo, as soon as she had been brought into any of our harbours, it could not have altered the way of thinking at any impartial court in Europe; but as to those courts, if there be any, that are partial in favour of France, our delaying to condemn and appropriate those ships may, in case of a war, encourage them to take part with France against us, and it will certainly encourage the court of France to persist in their obstinacy, as it is a sign of our being under a pusillanimous sort of timidity, lest we should be involved in a war with that nation; for whatever we may do, it is certain, that all other nations believe there is some truth in that old proverb, 'Audaces fortuna juvat,' or as our facetious Hudibras has it:

> For fortune does the stout *juvare*,
> But lets the timidous miscarry.

and I wish, that timidity, which in this case has too much influenced our councils, may not have a more fatal effect, if an actual war should from thence ensue.

But why should I say an actual war, Sir? It is already a time of actual war between France and us: the French began it as soon as they began to erect forts and plant garrisons on our territories in America. These were acts of hostility, and we have at last begun acts of hostility on our side, by seizing and detaining their ships. Whatever may be thought by those who have been used to the pettyfogging practice in our courts of law, an act of hostility has always been deemed, by the law of nature and nations, a real though not a verbal declaration of war. How, then, can the Bill now proposed be called a parliamentary declaration of war, when war has already been declared on both sides, and may certainly be carried on by us, who were first attacked, as long as his majesty pleases, without any verbal and formal declaration or denunciation of war. "Naturali jure," says Grotius, "ubi aut vis illata arcetur, aut ab eo ipso qui deliquit pœna deposcitur, nulla requiritur denunciatio." If, then, the captors are not to be allowed to have any right to the prizes already taken, they can have no right, by the law as it now stands, to any prizes that shall be taken before a verbal and solemn declaration of war, which may never happen during the present war; and consequently every seaman must, from the Bill now proposed, have a greater temptation to enter into his majesty's service, than he can have from the law as it now stands, which must of course render pressing less necessary than it is at present: and as I have shewn, that the condemning and appropriating every French ship that shall be taken, will contribute rather to prevent than precipitate a formal declaration of war, I hope the House will unanimously concur in ordering the Bill to be prepared and brought in.

Mr. *Welbore Ellis:*

Sir; although I have not the honour to be a minister, or to be let into any of the secrets of his majesty's councils, yet I can easily guess at his majesty's views in ordering his ships of war to make reprizals upon the French, and to seize and bring in as many of the French ships as they could meet with at sea. As his majesty has always most wisely and most humanely endeavoured to preserve the tranquillity of Europe in general, as well as of this nation in particular, he is never too quick or too violent in his resentment of any insult or injury, but the French had put us to such

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a great expence, and had made such unjust encroachments upon us both in the East and West Indies, that it was not possible to bear it any longer, without insisting peremptorily upon an adequate satisfaction for what was past, and a proper security against the like in time to come. This his majesty had long endeavoured to obtain by negociation, but when he found he met in that way with nothing but delays and trifling excuses, and that the French, instead of offering satisfaction or security, were preparing to send an armed force to America for supporting the encroachments they had made, he resolved to try if he could not compel them to agree to those reasonable terms they had refused to comply with in an amicable manner. With this view he sent out his ships of war with orders to seize only their king's ships, and when he found that this was not like to have the desired effect, he then sent orders to make reprizals upon their trading ships wherever they could be met with.

From hence we may see, Sir, that it was, and yet is, absolutely inconsistent with his majesty's design, to order the ships to be condemned and sold, and the produce to be divided among the captors; for if the French court should be prevailed on to give the satisfaction and security required, all those ships with their cargoes are to be restored to them; and consequently whilst there are any hopes of their being prevailed on to do this, which his majesty is the only judge of, no such Bill as what is now proposed can be passed into a law. Even the bringing in of such a Bill would be made use of by that party in France who are for war, as an argument for putting a final end to negociation, and for an immediate declaration of war; for in all countries, and in France more than any other, there are those who delight in war, because it is best adapted for answering their views of interest or ambition, and some perhaps because it may perplex those who then happen to have the lead in the administration. But in this country, which so much depends upon trade, I hope there are none who for any selfish views whatever are for precipitating their country into a war, whilst there is any hope of its being prevented by negociation, and of this hope no man in this House is so proper, or can be so good a judge as our sovereign, who will certainly declare war as soon as he finds that all such hopes are at an end; and the moment he declares war, which, I believe, he will do, though he may not perhaps, by the practice or the law of nations, be obliged to do so, the act of 1739 takes place, and our seamen will from that moment become entitled to the sole right to all the prizes they shall afterwards take from the enemy.

I say, Sir, that as soon as his majesty finds there is no further hopes of obtaining satisfaction or security by peaceable means, or reprizals, I believe he will declare war in the most solemn manner; and I say so, because his majesty has always regarded what is honest and decent more than what is required, or not required, by strict law; and even Grotius himself has declared, that it is honest and decent to declare war in a solemn manner before any direct act of hostility be committed, even where it is not required by strict law, "Verum etiam," says he, "ubi jus naturæ non præcipit talem interpellationem fieri, honeste tamen et laudabiliter interponiter." But reprizals were never yet reckoned a direct act of hostility: on the contrary, it is by many treaties between independent nations agreed, that the issuing and executing letters of reprizal shall not be deemed an act of hostility; for as it is by those treaties agreed, that no letters of marque or reprizal shall be issued until four months after satisfaction has been demanded in the manner therein prescribed, it is of course a mutual concession, that, if no satisfaction has been made, they may then be issued and executed, without its being deemed an act of hostility, or a breach of the peace subsisting between the two nations. And as the issuing of orders or letters of reprizal may often hereafter become necessary, I hope it will not be laid down as a maxim, that the officers and seamen who are to execute such orders or letters, are to have the sole right to whatever they take, for in that case neither the public, nor any private man for whose benefit such reprizals are issued, could ever receive any satisfaction or reparation of the damage received. It would, indeed, render it impossible to issue reprizals upon any account whatsoever, because by their very nature, if the captures amount to more than the damage received, the overplus is to be restored to the party from whom they were taken, after deducting the expence of taking them. But how is this overplus to be restored, if the whole produce of the capture is to be divided among the officers and seamen by whom it was made? It could be restored no other way but at the public expence, conse-

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quently the issuing of reprizals would always be a loss to the public, and could never be an advantage to the private men that had been injured, unless they themselves had been the captors.

Thus we may see, Sir, that the law which was passed in 1739, must be understood to relate only to those captures that are made after a war has been solemnly declared, and when it may become necessary to declare war, is surely a prerogative, that by our constitution belongs solely to our sovereign. Whether our ministers have done right in advising his majesty to issue reprisals before he declared war, or whether we ought before this time to have declared war, are questions of quite another nature: they are questions, which the parliament may perhaps have a right to enquire into, in order to punish or censure the ministers, in case it should appear, that they have given his majesty bad advice; but I am sure, they are questions which we are not now prepared to determine, nor is it as yet time for us to enter upon such an enquiry as must be necessary for determining such questions: in my opinion it would be imprudent, as well as improper for us, to enter upon any such enquiry, until peace has been some way or other restored; because for determining either of these questions, we must have laid before us an account of all the negociations that have been carried on since the last peace, not only between us and the court of France, but also between us and every other court of Europe that might think themselves interested, or obliged to join with us, or against us, in the impending war. Some gentlemen in this House, from the laudable warmth of their zeal for the honour and interest of their country, may be of opinion, that the court of France never do justice to any of their neighbours, till they are drubbed into it; but it is certain, that all the courts of Europe have not the same opinion of the French court, otherwise that nation could never propose to have an ally in any war they should be engaged in; and even some of our neighbours, who are not very apt to have a good opinion of the court of France, may be in doubt, whether the French have as yet peremptorily refused, or unreasonably delayed to do us justice upon the present occasion: nay, as the ground of the present dispute between France and us is far remote from Europe, and but of a late origin, all or most of the courts of Europe may have some doubt as to the justice of our demands; and it was, and still is prudent, and even in some degree necessary for us, to give them all possible satisfaction before we declare war, or act in such a manner, as if there were a declared war between France and us.

Now, Sir, as to what may be deemed acting in such a manner, as if there were a declared war between France and us, it is a question that depends upon the sentiments of the other courts of Europe, and not upon the sentiments of any member, or any number of the members of this House; and as we know nothing of the sentiments of the other courts of Europe, we cannot determine this question; consequently we can give his majesty no advice upon the present occasion, much less can we now determine, that all the ships, taken or to be taken from the French even before a declaration of war, ought now, or as soon as brought in, to be condemned, and appropriated to the captors. Such a method of proceeding might, I shall grant, be some encouragement for our sailors to enter into his majesty's service; but no gentleman, I believe, will say, that it would entirely prevent the necessity of pressing; and if we could suppose that it would, we are not surely to unite all the powers of Europe in a war against us, for the sake of encouraging the avaricious part of our sailors to enter into his majesty's service: I say, avaricious, Sir, for such I must call every man, who can be induced by nothing but the hopes of plunder, to list in the service of his country.

As to the method of pressing, Sir, that has been practised upon the present occasion, I shall admit, that it has been more general than usual upon any common occasion, because we had such a small number of seamen in the government service, and because it was necessary to fit out a much greater number of ships than usual upon any common occasion; but I will aver, so far as consists with my information, that no greater severities have been practised than have been usual upon every occasion. The military power has not been employed to press any seamen into the government service; but as complaints came from several parts of the United Kingdom, especially from Scotland, where mobs are more dangerous, and more mischievous than our mobs in England, that the press-gangs were in

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danger of being murdered by the mob, upon these complaints orders were issued from the War-office for the military to protect and defend the press-gangs against any mob, and to support them in every place where they were in danger of being riotously opposed in the performance of their duty; and this the military were as the king's subjects obliged to do, even though they had not been listed as the king's soldiers. Nay, it was what any magistrate of the place might, and ought to have required them to do; and they would have been guilty of a breach of their duty, both as subjects and soldiers, if they had refused or neglected to do as required.

And as to the practice of pressing seamen into the government service being authorised by law, Sir, when our sovereign thinks there is a necessity for it, the hon. gentleman who spoke last would not have questioned it, had he been well acquainted with our records, or had he considered the import of some of our late acts of parliament. The custom of pressing seamen is, I believe, coeval with our monarchy: we have press-warrants upon record so far back as the reign of Edward the 3rd; and it is highly probable, that the glorious naval victory which he obtained over the French in the year 1340, was with a fleet chiefly manned with pressed seamen, who nevertheless behaved with such courage and resolution, that though the French fleet was much more numerous, they obtained so complete a victory for their sovereign, that, of 400 ships the French could save but 30, and it was computed, that they had at least 30,000 men killed or drowned in the engagement. The antiquity of the custom of pressing is therefore a plain proof of its being authorized by common law; for the ancient customs of the kingdom are a part of our common law; and besides this, it is by implication authorised by our statute law; for by an act passed in the 13th of his present majesty, entitled, "An Act for the increase of mariners and seamen to navigate merchant ships, and other trading ships and vessels," it is enacted, That several sorts of persons therein described, shall not be impressed into the service of his majesty, his heirs, or successors; and all interpreters allow, that when a law prohibits any thing to be done in certain particular cases, it is by implication an authority for doing it in all other cases. There is not, therefore, the least doubt of the practice of pressing seamen into the king's service being authorised by law, when there is a necessity for it; and I am sure, no one will pretend to say, that there was not a very great necessity for it upon the present occasion, or that the same necessity does not still subsist.

Sir, the necessity was so great, that I do not believe it would have been in any sensible degree lessened, if his majesty had at first by proclamation declared, that all prizes taken from the French should belong to the captors; for every one knows how apt our seamen are, at the eve of a war, to keep industriously out of the government service, in order to embrace the opportunity of having high wages from the merchants, or of entering on board of privateers, where they may always expect more plunder, than they can generally expect by being on board his majesty's ships of war, especially the large ships, which are never, or but rarely, employed in making prize of the enemy's trading ships. But let the effects of such a proclamation have been what it would, I have shewn, that it would have been absolutely inconsistent with the design his majesty had in issuing orders for reprizals, that it was inconsistent with the very nature of reprizals, and that it might not only have involved us in an immediate war, but also might have united all, or most of the powers of Europe, in a war against us.

I hope every gentleman will now see, Sir, the wisdom of his majesty's conduct in ordering these reprizals, and in not condemning or appropriating the prizes. It was the most effectual method he could take for compelling the French court to submit to reasonable terms without involving us in an immediate war; and besides this design, I must suppose, that he had another equally prudent and salutary, which was this: he foresaw that these reprizals might not perhaps produce the desired effect: the French might persist in refusing to do us justice, so as to render a declaration of war necessary: if they did, we should by means of these reprizals have a considerable value of their property in our hands, which would add to our strength, and we should have a great number of their sailors in our possession, which would be a diminution to their naval power. And by thus delaying a declaration of war till after we had tried every other expedient for obtaining justice, we should persuade every court of Europe, that we were not the aggressors in the

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war. These, Sir, I take to have been his majesty's views; and they are all agreeable to his wonted prudence and magnanimity: but the Bill now proposed would defeat every one of them: it has been called a preventive measure, and it may very properly be called so; for it would prevent its being possible for us to avoid a war; and I am convinced, it would have little or no effect in preventing the necessity of pressing.

We must therefore, Sir, continue this method of providing men for his majesty's navy, until all the ships we have occasion to fit out, have got their full complement: and if any act of oppression has been, or shall be committed, we have proper magistrates for the oppressed to have recourse to, where they will certainly meet with redress, if their complaints appear to be well founded; and if the inferior magistrate should neglect or refuse to give redress, the superior courts would certainly punish him, as well as give relief and ample satisfaction to the party thus doubly injured. Such complaints should never, therefore, be mentioned in this House, unless it were done with a view to enquire into the conduct of some minister, or superior magistrate, who is above every tribunal but that of the High Court of Parliament; and if there were now any such design, it could be no argument for bringing in such a Bill as is now proposed; for to agree to such a Bill for such a reason, would be a running the nation into a misfortune, which the parliament could not rectify, in order to free it from, or to prevent a misfortune, which the parliament may rectify whenever it pleases.

Mr. *Robert Dundas:*

Sir; as the hon. gentleman, who spoke last but one, has clearly shewn, that the pressing of seamen into their country's service, is authorized not only by common law but by express statute, and as the statute mentioned by him, is a statute that extends to Scotland as well as to every other part of the British dominions, I have no occasion to say any thing in justification of the practice itself, and therefore I rise up only to rectify some mistakes which an hon. gentleman fell into, with regard to the late exercise of this power in Scotland, and which, I am sure, he would not have mentioned at all, or would have stated it in quite another light, had he had a full and true information of the matter of fact. This I may assert with the more confidence, from the knowledge I have of the hon. gentleman, and because, from the nature of the office which I have the honour to hold under his majesty in that part of the united kingdom, I must have heard of it, if any thing had been done there, which was contrary to law, or inconsistent with the privileges enjoyed by the happy inhabitants of this island; privileges which cannot be justly said to have been in the least violated, ever since the accession of the present illustrious family to our throne.

As to the employing of the military, Sir, upon the present occasion, my hon. friend has already sufficiently explained it: they were employed not to press, but to protect those who had a legal authority to press; and every one who knows any thing of the nature of the people in that country, must allow that it was absolutely necessary; for if the press-gangs had not in several places been attended by a party of soldiers, they could have pressed but very few of the most worthless sort of seamen, or otherwise a great deal of bloodshed would, I am convinced, have ensued; for the mob in that country do not content themselves with clubs and bludgeons, but possess themselves of as many fire-arms, and other mortal weapons, as they can possibly come at, and we know that our press-gangs are not furnished with arms proper for encountering such a mob; therefore, without the assistance of the military, no press-gang could have ventured to search for, or press any seaman who was a favourite of the populace; and of this we had a remarkable instance at one of the little sea-ports in Scotland, where a press-gang went to look for seamen, at first without any party of soldiers, and could find in the whole town but three ordinary seamen; but being afterwards informed that there were certainly a great number of seamen in that town, they went a second time, attended with a sufficient detachment of the military: by this they were enabled to make a strict search, and they found no less than threescore of as able and expert mariner as most in the British navy.

I know, Sir, that before the Union, there was never any such thing in Scotland as pressing seamen into the navy, and the reason is very evident, because they never had any navy, unless a frigate or two could be called a navy; but this is so far from being against, that, upon this occasion, it was a reason for employing the

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military to protect the press-gangs in the performance of their duty; because the populace in all countries are apt to resent, and even to rebel against the exercise of any act of power which they have never been accustomed to, though to sensible and thinking men, that act of power may appear to be absolutely necessary for the public service, or perhaps for preventing those very people who oppose it, from becoming a prey to their enemies. How happy would it have been for Scotland, in 1745, if all their seamen had been pressed into the public service, in order to man a few guard ships, to prevent the landing of those who at that time raised such a flame in the country; and yet I believe, that a press could not then have been carried on without the assistance of the military. In short, Sir, if pressing be a legal and a necessary act of power, as I think it has been fully proved to be, an officer with a press warrant in his pocket has as good a right to be effectually protected by our government in executing that warrant, as a constable in executing any warrant from a justice of the peace, and if this cannot be done by the civil, it must be done by the military power; but this will always be the case when the posse comitatus, or those whose duty it is to assist the officer or constable, are the very people that are engaged in the sedition or riot; and if the posse comitatus should be called for, or the hue and cry raised in any county where there were soldiers, they would be obliged, as his majesty's subjects, to assemble and march to the assistance of the civil officer; but I am sure it would be much better and safer to have them assemble and march, upon such an occasion, under the command of their officers, than to have them assemble and march without any such command; for it would be of the most dangerous consequence to accustom the soldiers of our army to assemble in any mobbish or tumultuous manner.

Now, Sir, as to the complaints mentioned by the hon. gentleman, of men being pressed who were not liable, either by law or custom, to be pressed into the sea service, I must, by the nature of my office, have heard of all complaints of this kind, that were regularly made, and I never heard but of three. Upon two of these the men, in whose favour they were made, were discharged; and with respect to the third, he was not, indeed, what we may properly call a seaman, therefore I sent for the officer who had pressed him, by whom I was informed, that the whole village where the fellow lived had desired he might be pressed, because he was a fellow so idle and profligate that he was more likely to ruin than provide for his family; and that even his wife, though she had signed the petition, had privately begged that he might be taken away from her. As all this was confirmed by several persons of the same village, I examined the wife apart, and then she confessed, that she had signed the petition because had she refused, and he had afterwards got loose, he would have murdered her, but that he was so far from assisting to provide for his family, that he had often robbed her of the money she had earned by hard labour, for maintaining herself and her six children; that he sometimes sold or pawned her children's clothes for money to spend at the ale-house, and that he beat her unmercifully if she ever dared to complain.

Let gentlemen judge, Sir, whether I could order such a fellow to be discharged: are not all such fellows liable to be pressed? Ought they not to be pressed either into the sea or the land service? If we had in this country any such thing as galleys, they ought to be made galley-slaves for life. From this instance we may judge of the oppressions complained of, with regard to the pressing of men into the sea service; for I am persuaded that many of them, if closely examined, would appear to be of much the same nature with this; because the regulating captains are always very ready to hear, and as ready to redress any complaint which they find to be just and well founded. And this shews how extremely cautious gentlemen ought to be, of mentioning any such complaints in this House, unless they have fully enquired into the nature and truth of the facts, and strictly examined both the parties concerned; and even then I do not think they ought to be mentioned, when they can have no other effect but that of rendering a measure odious which we must, necessarily, for the public safety, often have recourse to.

And as to the complaint, Sir, of churches being invested in the time of divine service, and the people disturbed in their devotion, no such thing ever happened but once, when a press-gang, attended by some soldiers, went into a church-yard, and, I believe, did lay hold of some seamen as they came out of church; but the soldiers were there accidentally, or at least they had no

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orders to attend, nor were they under any command upon that occasion; and as soon as the affair was heard of, strict orders were given, even to the press-gangs, never again to attempt any such thing; so that this must be reckoned one of that sort of irregularities which the laudable but misguided zeal of some men for the public service often leads them into, and cannot be altogether prevented in any affair of life; nay, even in religion itself, we know that men are often, by a misguided zeal, prompted to be guilty of very great irregularities.

Upon the whole, Sir, I do not think that any very extraordinary methods of pressing have been lately practised in any part of the British dominions, nor have I reason to think that any such oppressions or misfortunes have lately been thereby occasioned, as should induce us, for the sake of tempting seamen to enter voluntarily into the government service, to resolve upon a measure which would not only render an immediate war unavoidable, but make it believed, by all the courts of Europe, that we had provoked the war, and consequently that we ought to be deemed the aggressors; and that this would be the consequence of the Bill now proposed, we have, I think, great reason to believe, as his majesty has not yet thought fit to recommend any such Bill to our consideration, or to order any of the French ships that have been seized, to be condemned, and sold for the benefit either of the public, or of the captors: for we must suppose that the avoiding of these two consequences has been the chief, if not the only reason why the condemnation and sale of these prizes have been hitherto delayed. And therefore, until I have reason to believe that his majesty is resolved upon declaring war, I shall be against ordering any such Bill as this to be brought in.

Mr. *Charles Townshend:*

Sir; the hon. gentleman who spoke first against the motion now under our consideration, was pleased to recommend moderation to us upon the present occasion; and I shall grant that moderation is, upon all occasions, a very commendable quality; but I wish we had, upon this as well as some former occasions, mixed a little spirit with our moderation: for moderation without spirit ought rather to be called stupidity, and as such, I am afraid, our moderation, with regard to the disputes now subsisting between France and us, has been considered not only by all the indifferent nations in Europe, but even by the French themselves. This, I believe, has encouraged them, for several years, to behave in a most contemptuous manner towards us, though at the same time we have behaved in the most passive manner towards them; for I must observe, that ever since the treaty of Aix-la-Chapelle, our behaviour towards the French has been of the very same complexion with our behaviour towards the Spaniards for several years after the treaty of Seville, and indeed the treaties were pretty much of the same complexion. By the treaty of Seville we left the most important of the British concerns to be discussed by our respective commissaries at Madrid: the commissaries accordingly met, and conferred for some years without the least success, but at a great expence to this nation: the negociation was carried on, for several years more by our ministers; and thus we continued to negociate for ten years, whilst the Spaniards continued, during that whole time, to plunder our merchants and interrupt our navigation in the seas of America. In the same manner, by the treaty of Aix-la-Chapelle, we left the most important of our concerns with France, to be settled by our respective commissaries at Paris; for in every thing relative to the point of honour, we have for many years given it up, almost to every nation in Europe: our commissaries accordingly met the French commissaries at Paris, and for some years negociated with the same want of success: our ministers have since carried on the negociation; and thus we have been negociating for these eight years, whilst the French have been interrupting our trade, and plundering and murdering our people in both the Indies, and building forts upon our most undoubted territories in America.

I beg pardon, Sir, for saying undoubted, for really we have for so many years behaved with so much moderation, that many of our rights, which were never before contested, are now become doubtful, in the opinion even of some of those foreign states who incline to be our friends; and, indeed, I cannot much wonder at our behaviour, at and since the time of the treaty of Aix-la-Chapelle, as it has been directed by those very ministers, who served their apprenticeship under that minister who directed our behaviour at the time of the treaty of Seville, and from that time,

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until a year or two after the breaking out of the Spanish war; and if a war with France should now be the consequence, as I am convinced it will, we may observe the same similitude of conduct; for we began our war with Spain by ridiculously issuing orders for reprizals only, whereas had we begun it by one bold and vigorous push, we might have put an end to it at once, by obliging the enemy to submit to whatever we thought reasonable. Just so we have begun the war with France, by issuing orders for what I now find is to be called reprizals, whereas had we begun the war by a bold and vigorous push, and thereby repossessed ourselves of that island which we, I shall not say scandalously, restored to them by the treaty of Aix-la-Chapelle, we should have soon compelled them to sue for peace, because we could then have effectually prevented their sending supplies either of troops, ammunition, or provisions to Canada. But by beginning the war in our modern manner of making reprizals, we have given them warning, as we formerly did to the Spaniards, to provide for their defence, and the consequence, I fear, will be much more fatal, as the French have always been, and upon this occasion appear to have been, more alert than the Spaniards.

I call it, Sir, our modern manner of making reprizals, because reprizals is a term very improperly applied to what we now practise against the French, or what we formerly practised against the Spaniards. When a private injury has been done by the subjects of one state to the subjects of another, the state whose subjects have been injured demands satisfaction, and if it be denied, or unreasonably delayed, they issue letters of reprizal; but for a public insult or injury committed by the state itself, or by orders of the state itself, no nation, ever before, thought of issuing letters of reprizal. For revenging or redressing such an insult or injury, if public satisfaction be not instantly made, war is the immediate consequence, and a wise nation will always, in such a case, make their first attack as sudden and as vigorous as possible. This piece of wisdom we may learn from the very first age of the city of Rome; for the great Roman historian has told us, that the Sabine war was the most heavy and dangerous that Romulus was ever engaged in, "Nihil enim," says he, "per iram aut cupiditatem actum est: nec ostenderunt bellum prius, quam intulerunt."

In such cases, Sir, a previous solemn declaration of war is never necessary, or at least it ought never, even in common decency, to be made, until your armies are just entering the territories of the enemy; nor will the opinion of Grotius appear to be contrary to what I say, if what he means by the word 'interpellatio,' be duly attended to; for when he says, that though it be not commanded by the law of nature, "honeste tamen et laudabiliter interponitur;" it is plain from what follows, that he means a requisition of redress or satisfaction; and if we have not often made this requisition, I do not know what we have been doing for these six or seven years past. I do indeed suspect, that this requisition has always been made in such a moderate complaisant manner, that the court of France never thought we were serious, or that we would come to extremities in case of any delay; but if this was really the case, I believe it will not be made an argument against the motion now under consideration; nor would it be a good argument if it were, because the French have treated us with such contempt, that it ought to have been returned by an immediate attack: and consequently, I think, that one of the strongest reasons in favour of this motion is, that it will bring our tedious negociation to a short issue. It will convince the court of France, that however much our ministers may have been cajoled by their compliments and excuses, the parliament will not suffer itself to be so, but will force our ministers to mix a little spirit with their moderation, and insist upon a speedy and categorical answer.

This, Sir, will bring us quickly to a state of open war or honourable peace; and even the former is more eligible than the middle state in which we are at present. For what is it, that France has cajoled us so long with fair promises and sham excuses? For what have they, for some time past, shewn so much patience? They have been, they are still fortifying themselves in America: they have been, they are still restoring their navy, by all the means they can contrive. His majesty's ships of war may prevent their sending numerous embarkations to America at one time: they may interrupt their trade; and they may, in a great measure, prevent their importing naval stores in their own bottoms: but whilst we are in our present state, we cannot prevent their carrying on their trade, and importing naval stores

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in foreign bottoms, nor can we give commissions to privateers; and if the French should resolve to send supplies to America in single ships, we could not so effectually prevent it, by his majesty's ships of war alone, as we could do both by them and by privateers. Therefore, if the French court have lately shewn moderation, or patience, as it is called, they have a good political reason for it: they will probably never declare war, until they have so far restored their navy as to be in some degree equal to ours; and this we cannot prevent, by laying hold of a small number of their seamen; for it is ships, not seamen, that they are in want of; and as they have the command of not only all their own seamen, but many foreigners, if they should once be able to provide ships enough, they may send a most formidable navy to sea, though we had in our possession twice the number of their seamen we now have.

Thus, Sir, we may see, that though a declared war be a state which no nation ought to choose, and this state less than many others, yet, in our present situation, an honourable peace, or an immediate war, is what we ought to resolve to have; and therefore it is evident, that the only plausible argument that has been, or indeed can be made use of against this motion, if it had any weight, would be an argument for, and not against the motion. But, Sir, as the Bill was opened by the noble lord who proposed it, and by the hon. gentleman who seconded the motion, their motion can have no relation either to war or peace. It is so far from being a parliamentary declaration of war, that it is expressly the contrary; for the Bill is not designed to lay his majesty under so much as a conditional or contingent necessity to declare war, or to issue a commission to the court of admiralty to condemn the ships that have been or shall be taken: it is designed only as an assurance to our seamen, that if war should be declared, or such a commission issued, all the ships they have taken, or shall hereafter take, shall belong to them, in the same manner as they would have done, had they been all taken after a declaration of war; and this surely is not inconsistent with the nature of what is properly called reprizals, as it is not now so much as pretended, that out of the produce of these prizes any damage is to be made good to any private man in the British dominions. And as to the damage which the nation has suffered, or may suffer, or the expence it has been, or may be put to, it is the same thing to the nation in general, whether the prizes be appropriated to the captors or the public; because what belongs to the people of the nation, belongs to the nation; and the wisdom of the parliament has already determined, that our giving the prizes to the captors in time of war, will always contribute most to the benefit of the nation in general; as it will increase the number of prizes, and encourage our seamen to enter themselves voluntarily on board our ships of war, and consequently either entirely prevent or at least diminish the necessity of pressing.

To prevent or diminish this, Sir, is the chief design of this Bill; and to promote such a design, it is surely very proper to mention all the inconveniences we are exposed to, and all the complaints that have lately been occasioned, by our pressing of seamen into the service of the government. That these complaints were many and grievous in Scotland, I do not in the least question: our being obliged to make use of the military for protecting the press-gangs, is a plain proof of it; and I must observe, that it is a very subtle distinction to say, that the military do not press, but only protect the press-gangs. It is a distinction worthy of a Joannes Dunscotus; for by the same rule it may be said, that the press-gangs do not press, but only protect the officer who has the warrant in his pocket, and without whom they neither do, nor can lawfully press. But though I do not doubt of there having been many and grievous complaints in Scotland, yet I am very ready to believe what was said by an hon. gentleman, in an high office there; for as I take his office to be much of the same nature with our Attorney General's here, he could hear of no complaints, but the complaints of those who could complain in a regular and legal manner: but how few are there that have either money or friends sufficient for this purpose. I believe the lower sort of people here, are generally as rich as they are in Scotland; and yet I doubt if our Attorney-General ever heard of one complaint in England, unless it was in common conversation. Are we from thence to suppose, that there never was any complaint in England, or that no man was ever pressed, that was not by custom liable to be pressed, nor any man ill-used at the time of his being pressed, or after he was pressed?

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Sir, if the matter were to be strictly enquired into, I believe it would appear, that we have lost some thousands of brave and able seamen, by the usage they received in being pressed, and afterwards on board the tenders, or by the distempers thereby contracted. I believe every gentleman of this House has heard some instance of this kind: I have heard many; and therefore I think, that no gentleman who has any bowels of compassion towards our brave seamen, can refuse his assent to any measure which he thinks, may in the least contribute towards relieving us from the hard necessity we are under, of permitting our seamen to be pressed into his majesty's service. I say permitting, Sir, for that is the most that can be contended for, either from the common law, or the statute law of this kingdom. The practice may be of a very ancient date, as our kings always had, and it is necessary they should have, in time of war, some very extraordinary powers; but the practice is now frequent in time of peace as well as of war: if five or six ships, or any greater number, are to be fitted out, for the protection of our trade in any part of the world, or for giving weight to our negociations, as has been often pretended, all the seamen in the kingdom must be alarmed with a press; and great numbers of men are pressed, who are afterwards rejected by the regulating captains; for upon such occasions they will accept of none but the most expert as well as able seamen.

This, Sir, has really been of late years so frequent, that it renders the life of a seaman very uneasy, and his liberty very precarious, which prevents numbers of people from breeding either themselves or their children to the sea service; and this must be allowed to be a very great misfortune to a nation, whose chief defence consists in its number of able and expert seamen. And besides this, Sir, I am afraid, that this power which our sea captains have, of pressing men into their service, induces some of them to treat the seamen under their command, in a more haughty and harsh manner than they have any occasion for. This I am the more apt to believe, because some of our captains never have any occasion to press men into their service; for as soon as it is known that they are put in commission, greater numbers of volunteers offer to enter themselves under their command than they stand need of; and if care were always taken to commission such captains, preferable to any others, I believe, it would be a step towards preventing the necessity of pressing.

But this, Sir, must proceed from the executive, not the legislative power; and, in the mean time, let us do what we can, for enabling his majesty to prepare for war, by encouraging seamen to enter into his service. This must enforce our negociation for a peace, if there be now any such thing in agitation; and as this will be the effect of the Bill now proposed, I am most heartily for agreeing to the motion.

Mr. *Robert Nugent:*

Sir; there is a very great difference between enacting, that all ships which shall be 'taken' and condemned after a declaration of war, shall belong to the captors, and enacting, that all ships which shall be condemned after a declaration of war, shall belong to the captors; and yet this difference seems not to have been in the least attended to, by those who have spoken in favour of this motion; therefore, I must beg leave to explain this difference, because from thence it will appear, that the Bill now proposed is altogether unnecessary, or will be attended with very dangerous and pernicious consequences. To enact, that all ships which shall be 'taken' and condemned after a declaration of war, shall belong to the captors, can give no greater encouragement to our seamen to enter into his majesty's service than they have at present, because they all know, that by a standing law, the captors are to have the sole right to every ship that shall be 'taken' and condemned after war has been once declared; such a Bill would, therefore, be absolutely unnecessary, as it could no way answer the end proposed: and to take up our time with passing such a Bill, would really expose our proceedings to the contempt not only of our seamen, but of every man of common sense in the kingdom.

On the other hand, Sir, to enact, that all ships which shall be condemned after a declaration of war shall belong to the captors, even though taken by way of reprizal before the declaration of war, would be looked on, by all the courts of Europe, as such a menacing and insulting manner of demanding satisfaction, as must engage the honour of the court of France not to give us that satisfaction which we have a right to, and which they would otherwise

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have been willing to grant. Even in private life, if I had, by accident or mistake, done a gentleman an injury, I should be ready to ask his pardon, and to make him all the atonement in my power; but if he came to ask it in a menacing and insulting manner, I should certainly offer him a very different sort of satisfaction; and if the consequence should prove fatal to him, some gentlemen might perhaps say, he had acted with spirit, but I am sure no man would say, he had acted either with justice or prudence. And if we should pass such a Bill as this, the court of France would probably make us such an answer as d'Estrades tells us was made to ourcourt, in 1692, by Lewis the 14th: "A misfortune may happen to me, but fear can never make any impression."

This, I say, Sir, would probably be the answer of the court of France, and they would be justified in it by every court in Europe, which would be a great misfortune to us, because it would make us be looked on by all Europe as the authors of the war. In this case let us consider, Sir, that there are several powerful nations in Europe who, by treaties of alliance, stand engaged to assist France when it is attacked; and though we may be able to carry on a naval war against France alone; though it may perhaps be our interest to stand alone in such a war; yet I doubt much if we are able to carry on, with success, even a naval war against France, assisted by two or three of the other maritime powers of Europe, especially as we must always be obliged to keep a great part of our navy at home, for preventing our being invaded by those numerous land armies which France and her allies might otherwise be able to throw into this island. But supposing we could hope to be able to do this, would it be prudent in us to act in such a manner as to bring ourselves into such a dangerous situation, if by holding a different sort of conduct we may prevent any other nation's having a pretence for joining with France against us?

This is, Sir, what every gentleman ought most seriously to consider, upon this occasion, and it is a consideration upon which we neither have, nor can have the proper lights for enabling us to determine. Those lights his majesty certainly has from his ministers at the several courts of Europe; but those lights must be of such a nature, that no gentleman can think of having them laid before such a numerous assembly. That France has already demanded the assistance of her allies no one can doubt; and from the neutrality they have hitherto observed, we must conclude that none of them look upon what we have as yet done as a *casus fœderis*: they consider the ships we have taken, as taken only by way of reprizal, and to be restored to France, upon her granting that satisfaction we have a right to demand; but if we should make the demand in such a haughty manner, as to render it inconsistent with the honour of the French nation to comply with it, and an open war should from thence ensue, as it necessarily must, they would look upon us as the aggressors, and consequently would think themselves obliged to grant the stipulated succours to France. This is a way of thinking which the French court will certainly endeavour to lead their allies into, and if we should order such a Bill as this to be brought in, that court will as certainly make it a pretence for saying, that we have treated them in such an insolent manner, as renders it impossible for them to treat any longer with us. Whether such a pretence may have any weight with those courts that are in alliance with France, is a question which none but his majesty can pretend to judge of; but every one must suppose, that it is a pretence which the French court will make use of; and in my opinion, they have been waiting all this time, in expectation that, by some step in our conduct, we would furnish them with some such pretence as this.

It is this expectation, Sir, and not what the hon. gentleman who spoke last was pleased to insinuate, that has made the court of France hitherto bear, with a stoical patience, as some unthinking people amongst ourselves are pleased to call it, all the indignities we have lately put upon them. They are too well acquainted both with their own strength, and the strength of this nation, not to be sensible, that, by engaging single and alone in a naval war against us, they must run a great risk of having both their trade and plantations quite ruined in a few years, and that after they have lost their trade and plantations, it would be impossible for them to render themselves equal to us at sea, because if they had a sufficient number of ships of war, they could then no where find a sufficient number of seamen; as most of the seamen they now have would, in a few years, be either killed, gone into foreign service, or prisoners in some part of the

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British dominions, and many of them, perhaps, become protestants, and serving on board our navy.

Another reason, Sir, for the late patience of the French court with respect to us, must appear evident to every gentleman who knows any thing of the temper and disposition of the people of that kingdom. Some of their thoughtless young quality may perhaps be fond of a war with this nation; but it is well known, that the body of their people in general are extremely averse to any such war: among them it is a common and a true observation that all their possessions in Canada neither are, nor can ever be made worth the expence of one year's war with England; and, if a computation is to be made either from the naval strength of the two nations, or from their respective strength upon the continent of America, the chance of losing what they have there, is vastly superior to the chance they have of gaining any thing from us in that part of the world. These considerations, Sir, make every thinking man in France, who has no selfish view to serve, averse to a war with this nation; and if their ministers, for some particular reasons of their own, are resolved to come to an open rupture with us, rather than give us satisfaction, they know that they must wait till we have done something to raise the indignation of the people; for, even in the most absolute monarchies, some regard must be had to the humour of the people, because their armies must always, in some degree, partake of that humour, and are very apt to mutiny, or at least they never fight with spirit, when they are engaged in a war which they think imprudent or unjust; which maxim was so well understood by the ministers of France in the days of Lewis the 14th, that when the people of France were reduced to the utmost distress, and crying out for a peace upon any terms, the ministers offered such terms to the allies as they themselves had no mind to submit to, and offered them only because they expected their being rejected by the allies, as they accordingly were; whereupon the ministers got their sovereign to write a most moving and artful letter to the governors of the provinces, setting forth the terms he had offered for obtaining a peace, the haughtiness with which they were rejected, and the insolence of the terms proposed by the allies; copies of which letter were industriously dispersed among the people of every province, and, thereby, such an indignant spirit was raised among the people, as enabled the court to continue the war, till a change in the administration here, and the death of the emperor Joseph, which followed soon after, furnished them with an opportunity for obtaining better terms of peace, than the most sanguine Frenchman could have formed any hopes of.

This shews, Sir, that the court of France, notwithstanding the absolute power of their sovereign, find it necessary to study the temper and disposition of their people, and it is their attention to this that has hitherto delayed their resenting, in a hostile manner, our seizing their trading ships as well as their ships of war. The people of France do not know the importance of the disputes between France and us in America: they know that Canada has as yet been of very little advantage to them, and therefore they are unwilling to enter into a war with us on account of those disputes. This makes them wish that their courts would adjust all those disputes in an amicable manner, and in that case they expect, that all the ships we have taken will be restored; but our seeming to take any step for appropriating those ships to the captors, will put an end to that expectation, and raise among them a general indignation, which will enable their ministers to reject any terms of accommodation we can propose, and the consequence of this must be an open war.

I therefore concur in opinion, Sir, with the hon. gentleman who spoke last, that the late conduct of the court of France is rather to be called prudence than patience: they have political and wise reasons for holding such a conduct; but those reasons I have shewn to be very different from what the hon. gentleman was pleased to suggest. They are waiting till we take some such step as may raise a general resentment among their own people, and give their allies good reason to look upon us as the aggressors in the war, both of which would, in my opinion, be the effect of our agreeing to the motion now made to us; and the same effect would as certainly have been produced, had we declared war against France, or begun with a sudden and vigorous attack upon any of the French possessions in America, before convincing the several courts of Europe, as well as the people of France, that we were ready and willing to accept of any reasonable terms of accommodation: it

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would have united at least all the allies of France, if not all Europe against us; for in that case, the preservation of a balance of power at sea, might have had the same influence, and the same effect against this nation, as the preservation of a balance of power at land, had against France, soon after the beginning of this century, which is all I shall say, and as much as I have occasion to say, in justification of our late conduct, as it is not at present the subject of debate.

I shall therefore conclude, Sir, with this observation, that if the court of France had the direction of this House, they could not propose a step more agreeable to their scheme of politics, or that could tend more effectually towards enabling them to begin a war against this nation, with a high probability of success, than our ordering such a Bill, as is now proposed, to be brought in; and after having said this, I hope no gentleman will expect, that I should give my assent to the motion.

Sir *Richard Lyttelton:*

Sir; with respect to the motion now under our consideration, I must confess, I have met with a double disappointment, for when I heard the intended contents of the Bill opened by the noble lord, who made the motion, and the hon. gentleman who seconded it, and at the same time considered the circumstances we are in at present, I little expected that any opposition would have been made to the motion for leave to bring in such a Bill, whatever might have been made to the Bill itself after being brought in, and read a second or third time. I recollected that, in the session of 1737-8, much the same sort of Bill was moved for in this House, by the noble lord's father, and, though our circumstances with regard to Spain had not then near such a warlike aspect as our circumstances now have with regard to France, our then minister had too much sense to oppose the Bill being brought in: he even allowed it to go the length of being engrossed, but, as he had then always a dead majority at his beck, he had it thrown out upon the third reading; and as we now seem to copy that minister in every step of his conduct, I expected that we would likewise have copied him in this.

The other disappointment I have met with, Sir, is with regard to the arguments made use of against the motion. If any opposition should appear, I expected that the opposers would endeavour to shew, that pressing was no way inconvenient, or that the Bill proposed would not in the least remedy any of the inconveniences which our seamen are thereby exposed to. Some faint attempts have indeed been made, to palliate the inconvenience of pressing; but every one knows, that the exercise of that power is always attended with numberless irregularities, and often with acts of cruel oppression. No man can look into a tender, where pressed men are confined, without pitying those who have the misfortune of being shut up in such noisome dungeons; and it is certain, that many of them die there, or are afterwards destroyed by the diseases there contracted. Besides the violences often committed by our press-gangs themselves, do not we know, that often, and in many places, a gang of loose fellows associate themselves together, assume the character of a press-gang, and raise contributions upon every passenger, under pretence of pressing him into the sea service? I myself know of a very new sort of irregularity, that was, this last summer, committed by a press-gang, at a village in the west of England: in that village they have one certain bell, which is called the fire-bell, because it is never rung but when a fire happens in the village, and therefore, as soon as it begins to ring, the people all assemble, and run to assist in extinguishing the fire, and removing the people's goods: a press-gang having been informed of the use made of this bell, they came into the village and began to ring the bell, whereupon the people all assembled as usual, and three or four of them, that were known to be seamen, were pressed: the stratagem was in itself innocent enough, but it was attended with a consequence that was fatal to one family, and might have been fatal to the whole village; for a fire soon after happening, the bell was as usual rung, but the people, instead of assembling, shut themselves up in their houses, and the family where the fire began, for want of assistance in time, had not only their house, but most of their goods destroyed.

In short, Sir, our method of pressing seamen into the government service, is always attended with so many irregularities, and is, in its own nature, so oppressive upon that sort of men, whom of all others we ought to take the most tender care of, that I am surprised to find a Bill opposed,

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which so evidently tends to encourage seamen to enter voluntarily into the king's service; for, by a bare inspection of the law now subsisting, we must see, that no seaman can have the least pretence to a share of any prize taken before a declaration of war, even though such prize should be condemned and sold, either as soon as taken, or after the war has been declared. That law can, therefore, give no encouragement to enter into the king's service till after a declaration of war, and how can any man, much less any seaman, know that war will ever be declared; for his majesty may carry on all sorts of hostilities, as long as he pleases, without ever declaring war, and may even order the prizes to be condemned and sold, as soon as brought in, without any declaration of war: nay, I am surprised, that all the trading ships already taken, were not condemned and sold as soon, or very soon after they were brought into any British port; for supposing they were taken by way of reprizal, it is the constant practice of all nations to have the ship and cargo so taken condemned and sold to the highest bidder, as soon as brought into port; which practice is founded upon a most solid reason, because many sorts of merchandizes are spoilt by keeping, and every sort of merchandize suffers in its value, if not carried in due time to its proper market; and this reason we shall find fully confirmed by the effect of our not having followed this practice, with regard to the ships we have lately taken; for, as the cargoes of many of them consist in fish, they will, in a few months, be so spoilt as to be good for nothing, and the cargoes of the rest will suffer greatly in their value, by not having been carried, in due time, to their proper market.

To pretend, Sir, that these ships have not been disposed of, because they are to be restored upon the French court's agreeing to a reasonable accommodation, is a ridiculous pretence, because to expect, that either the court or people of France will be satisfied with a restitution of the ships themselves with their cargoes, is a ridiculous expectation. The people, at least the trading people of France, may perhaps be averse to a war; but I am sure, that they neither expect nor desire a restitution of the ships themselves with their cargoes: they desire to have an indemnification, equal to the value or price which the ships and cargoes might have been sold for at the time they were taken by us, and they expect that their court will procure them this indemnification from us, or make it good to them in some other way; therefore our not disposing of every ship and cargo as soon as brought in, will only add to the difficulty of our coming to any amicable settlement of the difference between the two nations.

It is equally ridiculous, Sir, to suppose, that our having condemned and sold these ships and cargoes by way of reprizal, as soon as brought in, would have raised the indignation of the people, or hurt or engaged the honour of the court of France, more than our having seized them. Can any one be so wrong-headed as to imagine, that a man's selling my property is a greater insult upon me than his taking it by violence from me? It is the violence that is the insult, the sale is only a damage, which I am to compel him to make good, if I can, or, by agreement, allow him to retain the whole or a part of what he sold it for, by way of compensation for some damage I had before done to him, after having forgiven the insult, which, by the violence, he put upon me. But if he had allowed what he thus took, by violence, to perish, our agreement would become much more difficult, because he could then have nothing to retain by way of compensation, and I must forgive the loss as well as the insult I suffered by his violence. Thus, if all the ships and cargoes we have taken had been sold to the highest bidder, as soon as brought in, we should have had something to retain by way of compensation for the expence we have been put to by the French encroachments, and if there had been any surplus, we should have had something to restore towards that indemnification, which the people of France expect for the loss they have suffered. But if we allow all those ships and cargoes to perish in our hands, we shall have nothing to retain by way of compensation, and the French, if they come to any agreement with us, must forgive the loss as well as the insult they have suffered by our seizing their ships. Consequently I must conclude, that our not having condemned and sold those ships as soon as brought in, tends rather towards making a war unavoidable, than towards facilitating any accommodation; and if a war should ensue, it will furnish a better pretence to every court in Europe for charging us with having been the authors of the war.

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Now, Sir, as to the disposal of the produce by the sale of the ships, it is the same thing, to the nation in general, whether that produce be appropriated to, and lodged in the hands of the captors, or appropriated to, and lodged in the hands of those who have the custody of the public treasure: in either case the nation is possessed of and benefited by the capture; and if, upon balancing accounts, a surplus had appeared to have been due to France, the nation could not have grudged making good that surplus out of the next supplies to be granted by parliament, in case the whole of the produce had been appropriated to the captors. I say, the nation could not have grudged this, after considering that such numbers of our people, and those who best deserved it, had been enriched by the produce, and that by the quantity of the produce we had prevented a dangerous and heavy war; for I must observe, that any surplus would have been a strong argument with the court of France for coming to an agreement with us, in order to get that surplus restored, and the larger that surplus had been, the more it would have inclined them to come to an agreement; therefore the only consideration we ought to have had, the only consideration we ought still to have, was, and still is, by what method such a surplus was, or is most certainly to be acquired and increased; and this method every one must allow to be that of appropriating all prizes to the captors, after declaring, in the most public manner, that the ships taken, or to be taken, were only by way of reprizal, and that we were ready to account for, and return the surplus, if any should arise, after deducting the expence we had been, or should be put to, by the French encroachments upon us in America.

This, I say, Sir, is the method we ought to have taken, since we resolved to begin with making reprizals for a public injury; and therefore such a law as this now proposed ought to have been passed before the end of last session; for if it had, I am convinced, that there would not have been near so great a necessity for pressing; and if every ship had been condemned and sold by public auction as soon as brought in, no nation in Europe could from thence have found a just pretence for calling us the aggressors, after considering what the French have been doing against us in America, almost ever since the treaty of Aix-la-Chapelle. But, Sir, we have for many years given ourselves a much greater concern about what the other courts of Europe may think of our active, than about what they may think of our passive behaviour; and yet there is no nation in Europe that has less reason than we have, to be cautious of giving a jealousy to its neighbours; for they all know, that it is not the interest of this nation, nay, that it is absolutely inconsistent with our happiness as an island, to make any conquests upon the continent; therefore in our present disputes with France, we should, in my opinion, have thought only of not giving a just pretence to any nation in Europe to join with France in a war against us; for if any nation is resolved to do so, no precaution of ours can prevent their finding a sham one; and for this reason I join with my hon. friend in thinking, that it was wrong in us to begin with reprizals against France. We should have begun with a declaration of war, and followed that declaration with as sudden and as vigorous an attack upon them in America as it was possible for us to make. Their behaviour towards us in Nova-Scotia would long since have justified such a proceeding; and the forts they have lately built upon the lake Erie had left no nation in Europe any colour of reason for saying, that they were not the aggressors.

If we had begun the war in this manner, Sir, we might, long before the end of last summer, have been again in possession of the island of Cape-Breton; and, after our having again recovered possession of that island, a strong squadron, with a few small cruizers stationed at Louisburg, and another strong squadron, with a few small cruizers stationed at Jamaica, would have made it impossible for the French to have sent sufficient supplies or reinforcements either to their colony in Canada, or to the colony which we, of late years, so tamely allowed them to establish at the mouth of the Mississippi, as every gentleman may see by a bare inspection of the map. With regard to Canada every one knows, that, for four or five months of the year, all access to it is cut off by the ice, and, for the other months, which are the lightest, every ship must pass either by the Gut of Canso, or between Cape-Breton and Newfoundland, or by the Streights of Belle-Isle. The Gut of Canso is not above two or three miles over, and consequently one cruizer would prevent a single ship's passing that way: the passage between the easternmost point of Cape-Breton, and

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the westernmost point of Newfoundland, is not fifty miles over, and therefore four or five cruizers stationed there, would render it almost impossible for a single ship to pass; and a fleet could not approach either of those passages without being discovered by some of our fishing vessels upon the banks, and intelligence thereof given to our squadrons at Louisburg: the only passage then left is by the Streights of Belle-Isle, and that passage lies so far north, that it can never be attempted but in the height of summer; and, during that time, a man of war or two, with a small cruizer from Louisburg stationed at the south-west end of those Streights, would probably intercept every ship that attempted to pass, as the Streights are not above ten miles over, but are above sixty in length.

Thus, Sir, we might, in two or three years time, by mere famine alone, reduce the French colony of Canada, especially if, at the same time, all supplies were in a great measure prevented from being sent to the colony of Mississippi, which might be easily done by a few small cruizers stationed upon the north side of the Bay of Mexico, under the protection of our squadron at Jamaica; for in that Bay, the air is almost constantly so serene and clear, that no ship can pass within some miles of another, even in the night time, without being discovered; and this colony too would soon be reduced to the utmost distress, if they had no supply of provisions from France, or of ammunition for enabling them to get provisions for themselves.

I therefore think it evident, Sir, from the very nature of things, that, if we had taken this method of beginning and prosecuting the war, we might, in two or three years, have so distressed their colonies upon the continent of North-America, that they would have been glad to have surrendered to us their colony of Canada, in order to save their colony of Mississippi and their sugar islands; for these, too, would have been reduced to great distress, because our privateers would have swarmed so about them, that it would have been very difficult for them to get any supply of provisions or ammunition; and thus we might, in a few years, have put a glorious end to the war, without any great expence, and without exposing our armies to the fatigue and danger of marching two or three hundred miles by land, through a wild, desart, and impracticable country, to attack the forts which the French have lately built in America, and which, if reduced, could be of very little advantage to us, unless we likewise subdued the colony of Canada itself. But, by our reprisals, we have given the French the alarm, so that, by this time, I reckon, they have so well furnished all their colonies with troops, ammunition, and provisions, that we cannot propose to reduce any of them by famine; and, I believe, we shall now find it both difficult and expensive to reduce any of them, especially Cape-Breton, by force of arms. This will of course make the French less willing to agree to any reasonable terms of peace than they would otherwise have been; from whence any one may foresee, without being a conjuror, that a war is not only unavoidable, but that it will be an expensive and a tedious war.

Thus we may see, Sir, what an unfortunate situation we have brought ourselves into, by shewing an extreme, and, I think, unnecessary concern, lest any of the allies of France should look upon us as the aggressors in the war; and as seamen will be so much wanted in the prosecution of the war, I shall not, for such a reason, be against doing, or for delaying to do, what will contribute towards encouraging seamen to enter into the government's service, or towards encouraging landmen to betake themselves to the sea service, both which will, I am convinced, be the effect of the Bill proposed, and therefore I shall most heartily agree to the noble lord's motion.

Mr. *William Beckford:*

Sir; as I hope we shall, in a very few weeks, have preliminaries, at least, settled and agreed to for an honourable treaty of peace, or war declared in the most solemn manner, and as we cannot expect that any great number of seamen would, in so short a time, enter voluntarily into his majesty's service, in consequence of this motion being agreed to, I must think, that it will be more prudent to delay ordering any such Bill to be brought in until war be actually declared; for even in that case, I am of opinion, that a new Bill must be brought in for explaining and amending the laws now in being, and then we shall be better able to judge, what ought to be done with the prizes taken before the declaration of war; because if any of our people in America have suffered by the incroachments or depreda-

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tions of the French in that part of the world, some share of the produce of the prizes already taken ought to be applied towards making good the damage they have sustained, in the same way as was done with regard to those prizes taken from Spain in 1739, before we declared war against that nation; for this is a piece of justice we owe to the sufferers, and always ought to be considered when orders for reprizals are issued to any of his majesty's ships of war.

But, Sir, let such a Bill be ordered when it will, it ought to be extremely well considered; for I doubt if it be consistent with the public service to give the whole of the prizes to the captors; I am afraid, it makes our naval officers a little too fond of having the command of our fourth, fifth, and sixth rates, and to me it seems to be an injustice done to those officers and seamen who are employed on board our first, second, and third rates, as the former are always employed as cruizers, and owe their protection to the latter, when we are at war with a nation that has any pretence to being called a maritime power. I must, therefore, think, it would be right to have our whole navy divided into certain squadrons; and that all prizes taken by any ship of such a squadron, should belong to, and be divided among the officers and seamen of that squadron, though taken at never so great a distance from the chief rendezvous of the squadron; and this would be particularly necessary in case of a war with France, because we must, in such a case, always keep a large number of capital ships in readiness at home, none of which could ever be employed as cruizers, or have an opportunity to take any prize; and therefore, in justice to the officers and seamen employed on board of such ships, they ought, I think, to have a share of all the prizes taken by any cruizer not belonging to any squadron stationed in some other part of the world.

This, I think, Sir, would be a more just and a more equal distribution of the produce of the prizes taken by his majesty's ships of war, as every officer and seaman on board the royal navy would then be sure of getting something by prizes, and no one would ever get too much, which in the late war frequently happened to be the case. Another advantage would be, that the ships employed to guard our coasts, or to convoy our trade, would not be under so great a temptation to neglect their proper duty, and to employ themselves in looking out for, and seizing the trading ships of the enemy, which I suspect was sometimes the case during the late war; for considering the great superiority we then had at sea, the number of our trading ships taken by the enemy was surprizing. I myself once carried to the admiralty board a list of 1,200 merchant ships that had been, in a short space of time, taken by the enemy; and of these 1,200 there were no less than 900 that were colony ships; so that the trade of our colonies was either more neglected than any other branch of our trade, or we must reckon that the colony trade is, in proportion to the whole trade of this nation, as nine is to 12, or three to four, which shews how much it imports us to take all possible care of our colonies and plantations in America.

For this reason, I say, Sir, I hope we shall soon have either an honourable peace, or a declaration of war; for the uncertain state we are in at present would, in a short time, ruin our colonies, our trade, and our navigation, especially the last, because it would throw the whole of it into the hands of foreigners, as far as our navigation act could allow; nay, it has already thrown a great deal of our navigation into the hands of foreigners; for besides the high wages we are obliged to pay to our seamen, the insurance upon British ships is now very near as high as it ever was in time of war; so that unless war be soon declared, and due care taken to guard and protect our trade, we must be reduced to the dire necessity of repealing, or at least suspending our navigation act, and selling all our trading ships at half price to foreigners. I therefore think we are under an absolute necessity of coming very soon to a determination as to peace or war, and it is this that makes me against putting a question upon the present motion; for as to our seamen, I shall always be for giving them every encouragement in our power, and for freeing them, as much as possible, from every hardship they now do, or can labour under; because no one can have a greater regard for that body of men than I have; nor is there any gentleman, who has more reason than I have to wish well to them, as a great part of my fortune is every year afloat upon the ocean.

Mr. *George Grenville:*

Sir; when I seconded the motion now under consideration, I could not sug-

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gest to myself any objections that could be made to it, therefore I at that time gave you no further trouble than to open, as clearly and fully as I could, the intention of the Bill proposed by my noble friend, and reserved to myself the privilege of rising up again to answer the objections made, if any should be made, to my noble friend's motion. Objections have, it is true, been since made; but they are such as could never have entered into my head to suggest, and if they had, they are such as I, as an Englishman, should have been ashamed to suggest. What strange, what unmanly fears, have been thrown out upon this occasion! We must not prepare for war, for fear of rendering a peace impracticable! We must not prepare for war, for fear of offending the allies of France! We must not prepare for war, for fear of raising the resentment of the people of France! I am really ashamed, Sir, to hear such arguments made use of in a British parliament. The French have, ever since the treaty of peace at Aix-la-Chapelle, been supporting, assisting, and furnishing with arms and ammunition, those Indians who, at their instigation, have been murdering and scalping our people in Nova-Scotia: the French have ever since that treaty been building forts upon our territories, almost round our frontiers in America; and they have sent troops thither to defend those forts; nay they have lately by violence taken a fort from us; and have not only robbed and murdered many of our people, but have actually, in an open and hostile manner, attacked our troops in that part of the world. After such repeated, such designed insults, shall any fear whatever prevent our preparing to do ourselves justice? Sorry I am, to hear such a suggestion from the mouth of any Englishman. If such a suggestion should have any weight with the people of this country, how justly may it be said, 'Quantum mutatus ab illo!'

If we are suing, Sir, if we are begging for a peace upon any terms, I shall grant, that our preparations may offend our enemies: if we are resolved to accept of such a peace, as French allies may dictate to us, I shall grant, that our preparations may offend them. But if we are resolved to command an honourable peace, the more we are prepared, the more able we shall be to command; the less will every nation in Europe be inclined to risk joining with France against us; for nations are pretty much like old gamesters: they compare the chance they have of gaining, with the chance they have of losing, and they never venture when they plainly see that the odds are against them. This I am sure every gentleman will grant, who has the honour to be of that famous academy near St. James's; and consequently every such gentleman must, I think, be for this motion, because nothing can be more certain, than that the more we are prepared for war, the more the odds will be against those that shall dare to join with France against this nation. There are, I know, some nations in Europe, that are by treaty obliged to join with the French when they are unjustly attacked; but I likewise know that no nation in Europe is obliged to join with the French when they are the aggressors; and I also know, that the judgment of nations, as well as private men, is always strongly biassed by their interest. How, then, are we to prevent the French being joined by any of their allies in a war against us upon the present occasion? Is it not by making every nation in Europe think, that the French were the aggressors? How are we to make every nation in Europe think so? Is it not by making it their interest to think so? How are we to make it their interest to think so? Is it not by shewing them, that the odds will probably be against them? Can we do this any other way, but by shewing them that we have prepared, and are resolved to vindicate the honour of our country against them, as well as France?

Therefore, Sir, the most effectual way for preventing France being joined by any of her allies in a war against us, is to make all possible preparations for war; and this will of course be the most effectual way for obtaining a safe and honourable peace; for if the French court find, that they cannot prevail with any of their allies to join with them, I believe they will be extremely cautious of coming to an open war with this nation, as they can carry it on no where but by sea, and there we are so much superior to them in power, that they can have no chance for success, if the war be managed on our side with any tolerable conduct. I say, Sir, that the war can be carried on no where but by sea; for I may justly and properly say so, when the armies on both sides must be transported by sea; and if we pursue the plan that has been chalked out by an hon. friend of mine in this debate, we may very soon put it out of the power of France to send any troops to America, or to support those she

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has now there, or may have sent there before our declaration of war. From hence, Sir, I must conclude, that if our present disputes with France should end in an open war, it can proceed from nothing but the late pusillanimous conduct of our ministers, and the contemptible opinion which the French court have of their capacity to conduct a war; and nothing can tend more towards confirming them in that opinion, than our putting a negative upon this motion.

Then, Sir, as to the people of France, if they have now any hopes, that the ships we have taken are to be restored, they cannot surely have any such hopes after all those ships are condemned and appropriated to the captors; and as those ships are not by the proposed Bill to be condemned and appropriated, until after a declaration of war, if the people of France have any influence upon their court, our passing this Bill will oblige them to make use of that influence, for inducing their court to come speedily to an amicable settlement of all the disputes now subsisting between us, in order to prevent a declaration of war, and in consequence thereof, a condemnation and appropriation of all the ships we have taken, or shall hereafter take.

Thus, Sir, in every light in which this Bill can be viewed, it must appear to tend more towards bringing on a speedy, safe, and honourable peace, than towards rendering a war unavoidable, and consequently must tend towards removing or preventing all those slavish fears that have been thrown out upon this occasion. It must tend towards obliging the court of France to give ear to any reasonable proffers of peace; it must tend towards rendering the people of France solicitous for preventing a declaration of war; and it must tend towards preventing the allies of France from looking upon us as the aggressors, or thinking themselves obliged to assist France against us. These, Sir, will be the happy effects of our agreeing to this motion; and the contrary, in every particular, will be the fatal effects of our putting a negative upon it.

Having now considered what effects our agreeing, or disagreeing to this motion, will have abroad, I shall next consider, Sir, what effects either may have at home. In the first place, our agreeing to this motion will have a great effect towards inducing our seamen to enter voluntarily into the government service, and consequently must of course lessen the necessity we are under of making use of that tyrannical and unjust method, called pressing. I say tyrannical, Sir, because not only a tyrannical, but a cruel use is often made of it; and it is certainly unjust, because if men are to be pressed into the public service, every man who is fit for service ought to be pressed in his turn, and no man ought to be forced to serve but in his turn. In the next place, Sir, our agreeing to this motion, would make both the officers and seamen of our ships of war more active and diligent in looking out for, and seizing the ships of France; and if the taking of any be an advantage, or will conduce to a peace, surely the more we do take, the more advantage we shall have, the more it will conduce to a peace. That both these effects would flow from our giving all prizes, as soon as condemned, to the captors, is so certain from the nature of things, and was so fully confirmed by experience in the last war, that it cannot with any colour of reason be denied; and consequently we may be assured, that both would immediately flow from our agreeing to this motion.

But now, Sir, with regard to the consequences of our disagreeing to this motion, how must it depress the spirits of those seamen that are already in the public service, how unwilling must it make every seaman to enter into the public service? Will any man of common sense willingly do so, when he finds he can expect nothing but the poor wages allowed by the public; and that at a time when he is sure of having double the wages by continuing in the merchant service? Gentlemen may, perhaps, choose to disagree to this motion by means of the previous question; but our brave and blunt seamen do not understand such language. When they hear of such a motion having been made and not agreed to, they will conclude, that it was rejected; and consequently will suppose, that our ministers are resolved to carry on this war in the manner they have begun it, without any formal declaration of war, in order that they may have an opportunity to enrich themselves by the prizes that are taken; nay, as all prizes would in such a case belong to the crown, I am afraid, lest our seamen should carry their suspicions higher than our ministers. God forbid, any of them should ever suspect that his majesty intends to enrich himself by a war. Those who know his generous and

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bountiful nature, can have no suspicion; but our seamen can have no such knowledge; and therefore, in duty to our sovereign, we ought to agree to this motion, in order to prevent their entertaining any such suspicion.

In gratitude likewise, Sir, to our seamen, we ought to agree to this motion. To them this nation owes that internal tranquillity, which it has for so many ages enjoyed. By them we have, for so many ages, been protected from those inroads of hostile armies, which other nations have often been exposed to. It may be truly said, that ever since the invasion of the Danes, our internal tranquillity has never been disturbed but by civil broils amongst ourselves; and they deserve this encouragement the more, as the wages allotted them by the public are but very small, and as their condition of life is harder, and the dangers they are exposed to are greater than those of any other sort of military men. They pass a greater part of their life in a sort of prison; and even in the most peaceable times they are exposed to the dangers of the sea. The wages even of our sea officers are but very inconsiderable: a sea lieutenant, when out of commission, and upon half pay, has but 2*s.* a day, which is 36*l.* 10*s.* a year. How many of our civil officers have higher wages, or a greater salary, without being ever exposed to any danger; and yet our sea lieutenants are, by his majesty's orders, to rank with a captain of foot. Therefore in justice, as well as gratitude to our seamen, we ought to give them every other advantage in our power.

After having thus answered every objection that has been made to this motion, and given such strong arguments for our agreeing to it, I hope, Sir, it will not be said, that it proceeds from a French party in this House, as has been said without doors of those who happen not to approve of every thing that has been done, or left undone, by our ministers. Nay, an insinuation has even been printed and published, that 250,000*l.* had come from France, for creating an opposition to the wise measures of our ministers. But I am so far from being angry at this freedom, though it may justly be called licentious, that I am glad to see the press so free. It makes me recollect what I have somewhere read of one of the greatest generals of the Athenian commonwealth, who was accused by a most low and abject citizen: though the accusation was false, he was so far from resenting it, that he rejoiced at it, and said, he was glad to find that he had so well established the liberties of his country, that an accusation might be brought by the meanest citizen, against the greatest man in the republic: I hope, this will always be the case in this country; for though it may be sometimes necessary to punish licentiousness, yet even licentiousness itself ought not, I think, to be ever so severely punished, as may encroach upon the liberty of the press. This, indeed, will never happen, I believe, when the licentiousness is directed against those who are in opposition to ministers of state; but there is some danger when it takes a contrary direction; and therefore even the punishment of licentiousness is an affair that may, sometimes, deserve the attention of this House.

Mr. *Henry Fox:*

Sir; however contemptibly some gentlemen, from an affectation of popularity, may talk of fear, yet I hope they will not say, that it is consistent with common sense to be afraid of nothing; therefore I shall never be ashamed to own, that I am afraid of involving my country needlessly in any war; and though I have as good an opinion as any man ought to have, of the power of my native country, and the courage and vigour of my countrymen, yet I shall never be ashamed to own, that I am afraid of acting in such a manner, as may unite several powerful nations against us, when, by holding a different sort of conduct, we may prevent any such union. Whilst we sit quiet and safe in this House, gentlemen may talk in a high strain of national strength and courage, and of the contempt we have for our enemies; such a way of talking is sure to be attended with the applause of the populace; and I shall grant, that those who are only to act, can never have too high an opinion of their strength and courage, or too great a contempt for their enemies; but those that are to direct, may err in both these respects, and such an error has often been the cause of the destruction both of themselves and those under their direction. Therefore, whatever way gentlemen may affect to talk in this House, I hope those who have the honour to be of his majesty's council, will take care never to form too high an opinion of our own strength and courage, or too mean an opinion of the strength and courage of those who are, or are like

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to be our enemies; and as we in this House are one of his majesty's great and supreme councils, this care is, I think, a duty incumbent upon every gentleman who has the honour of a seat in this assembly.

If we do our duty in this respect, Sir; if we maturely and carefully examine all circumstances, I believe, we shall find that the French are not such contemptible people, as to induce us, in prudence, and without regard to justice, to involve ourselves in a war with that nation, if it can with honour be avoided; and if it cannot with honour be avoided, I am sure, we ought to take all possible care not to furnish a pretence to the allies of France, for thinking that we are the aggressors; therefore I must think, that during this whole debate, gentlemen have never once considered the importance of the monosyllable, 'now;' and yet it is the hinge upon which the very marrow of this debate must turn. If a war should ensue, or if his majesty was convinced, that there was no longer any room to expect redress or satisfaction, by treaty, I shall grant, that some such Bill as this would be necessary; but the question is, if it be 'now' necessary. If it be not 'now' necessary, the ordering of such a Bill to be brought in, can do but very little good, and may do a great deal of harm. All the good pretended to result from it, is that of its inducing some of our seamen to enter voluntarily into his majesty's service. Gentlemen who suppose that this would be any great inducement, must have a very different opinion of our common seamen from what I have. They must suppose them to be a very thoughtful, considerate sort of men, and such as are ready to give up a small present advantage for a very great and future advantage in expectation; whereas, I have always taken them to be the most thoughtless, inconsiderate set of men in the kingdom, and such as have less regard to futurity, I mean in this life, than any other sort of men whatever. But suppose that this would be an inducement to some seamen, to enter voluntarily into his majesty's service, could it have any great effect in a few weeks, or in two or three months, which, in my opinion, is the longest time we can be in suspence as to peace or war? I am almost certain it would not, and I am the more certain, because I believe there are now no seamen unemployed in the British dominions: they are all employed either in our navy or the merchant service, unless it be such as are just returned from a voyage, and have their pockets full of money, and these you cannot expect to enter, whilst they have a shilling left in their pockets. For the cause of our want of seamen at present, as well as upon every like occasion, is not owing so much to their unwillingness to enter into the king's service, as to never having a sufficient stock of seamen, at the eve of a war, to supply our trade and our navy; nor is it possible, I think, to prevent this being always the case, by any other method but that of keeping a very large number of seamen in constant pay and employment, in time of peace as well as war.

Therefore, Sir, the utmost advantage we can expect by ordering any such Bill to be brought in, a few weeks, or a few months, before it may become necessary, is both uncertain and inconsiderable; but the harm it may do this nation is, I think, certain, and may be attended with utter ruin; consequently it requires no great skill in the doctrine of chances, to determine what ought, in such a case, to be done. I shall grant, Sir, that the judgment of nations as well as of private men is pretty much governed by what they take to be their interest; but whilst France takes care to prevent her neighbours conceiving a jealousy of a too great increase of her power, I am afraid, that in a war between France and us, several of the nations in Europe would think it their interest to join with France, notwithstanding the greatest preparations we could make, because in the chances of war they would look upon the odds to be on the side of France; and therefore in all our disputes with that nation, it is prudential in us, to conduct ourselves so as to convince every nation in Europe that, if a war should ensue, it is not owing to injustice on our side, but to ambition on the side of France; for as this would of course stir up the jealousy of the other powers of Europe, they would either stand neuter in the war, or be ready, for the sake of their own preservation, to join with us, if the chances of war should turn very much against us.

To prevent this, Sir, is the true cause of that patience which has been hitherto shewn by the court of France. They look upon themselves, I fear with too much justice, as an overmatch for any one nation in Europe; therefore the only thing they have to fear, is that of raising such a jealousy of their power and ambition among their neighbours, as may produce

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a confederacy against them. This is the only nation in Europe from which, singly and alone, they have any thing to fear, because they can attack us no way but by sea, and upon that element we are as yet superior to them, though in the course of a long war, by good conduct, and a few accidents in their favour, they may become superior to us even at sea. However, as this would be tedious, dangerous, and expensive, they are using all their art to persuade all their allies, that we are the aggressors, in order to get them to join against us. How are we to prevent the success of the French in this attempt? Not by doing what we ourselves think we may justly do, for vindicating of our possessions and our rights in America; but by doing no more than what the allies of France think we may justly do; and from hence every one must be convinced, that if we had begun a war with France in the manner chalked out by the hon. gentleman in this debate, we should probably have had one half of Europe united with France against us; and no one will suppose, that, in such a case, we could for one year have preserved our superiority at sea, considering the great number of ships of war we must always keep at home, for protecting our trade and preventing an invasion.

We find, Sir, that what we have as yet done, has not had the effect which the French expected and wished for: we find, that our seizing the French ships, and our endeavouring to intercept the troops they send to America, have not made any ally of France look upon us as the aggressors; but I fear we are upon the verge of the precipice, and that one step further would make us drop into the gulph of perdition. Even the allies of France are now mediating between us, and endeavouring to prevail with that court to agree to reasonable terms of accommodation. What would they think, should we, whilst they are thus employed, order such a Bill as this to be brought in? I am persuaded, that they would look upon it not only as a hectoring menace against France, but as an affront to themselves. Nay, I am afraid, they would begin to look upon us as real pirates, which the French have been representing us to be at every court in Europe; for as yet they consider our seizing the ships of France as done with no other views but such as we really had, which were, that we might have something in our hands to restore, in case honourable terms of peace should be offered; and, secondly, that we might possess ourselves of some thousands of French seamen, which in case of war might be employed against us. But if we should order those ships to be appropriated to the captors, most foreign courts would begin to think, that we had seized those ships without any other view but that of gain, which is the proper character of pirates.

Thus, Sir, it is evident, that our agreeing to this motion might be attended with the most dangerous consequences, with regard to our foreign affairs, and with regard to our domestic, it is really what we cannot in justice do, at least so far as relates to the ships already taken: the property of them is already vested in the crown; and every one knows, that we never pass any Bill by which the property of the crown may be affected, without having first had the consent of our sovereign signified to us by message. Nay, we never pass a Bill by which the property of any private man may be affected without making good to him the damage or loss he may thereby suffer. Our agreeing to this motion would therefore be a trespass upon prudence, as the ships taken before a declaration of war, are often in whole or in part applied to make good the damage private men had suffered by what occasioned the war, or they are restored upon a renewal of peace. Thus the ships taken from the Spaniards in 1739, before the declaration of war, were partly applied towards making good the damage which our merchants had suffered by their depredations; and the ships taken from them in 1718, were restored upon the renewal of peace in 1721. Nay, some French ships that had been seized by our ships of war, on pretence of their being Spanish, before the declaration of war between France and us, in 1744, were restored, even during the continuance of the war, upon its having been made appear that they were truly French ships. Therefore, I must think, that it would be inconsistent with prudence to enact, that the property of all ships, taken before the declaration of war, should become vested in the captors as soon as war should be declared, and the ships condemned.

Having thus shewn, Sir, that our agreeing to this motion can do little or no good, but may do a great deal of harm, and that our passing such a Bill as this would be inconsistent with both justice and prudence, I am for following the example set

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us by a former minister: he was against passing such a Bill as this in 1738, because it was not then necessary; but he was for it in 1739, because it was then become necessary: and he was probably for its going the length of the third reading, to prevent any opposition being made to it when it should become necessary. But as this last circumstance cannot now serve any purpose, we have no occasion to take up our time with preparing and reading any such Bill, until it does become necessary. So that my conduct at this time does not properly differ from the conduct of that great minister, whom I shall always be proud to imitate, and shall never be ashamed of having been one of his constant friends. Whatever some gentlemen may be pleased to say of the character of that minister, I wish they would not make quite so free with the character of parliament, in his time. To talk of a venal majority at his beck, in parliament, may teach the people without doors to think at least, if not to talk, of a venal majority in our present parliament. That minister, it is true, had a very great influence for many years in parliament, but it proceeded from the rectitude of his measures, and his abilities in explaining them to the House. He was always for keeping his countrymen in peace, if possible; and we cannot boast much of what we have got by war since his resignation. From what had before happened to him we know, indeed, that there may be a venal majority in parliament, for he innocently suffered by one; and I wish we had never had reason to suppose that there may be a factious majority in parliament; for they are equally dangerous to our constitution, but the latter is by far the most dangerous to the peace and safety of the kingdom.

Mr. *William Pitt:*

Sir; I never before observed that any monosyllable was of great consequence in our debates, except the two famous ones which, like the 'ultima ratio Regum,' determine every matter that happens to be contested in this House, and, like that too, are very often, on one side, the only reason that can be given. But in this debate, it seems, the monosyllable, 'now,' is of equal consequence with the monosyllables, 'aye' and 'no.' If it be, Sir, I must ask the hon. gentleman, who lays so great a stress upon it, whether we ought to prepare for war before we declare war? If he answers by the important monosyllable, 'aye,' he must grant that the important monosyllable, 'now,' is in favour of the Bill proposed, as nothing more is thereby designed, but a method of preparing for war which experience has taught us to be both proper and necessary. Surely, Sir, we ought to have our navy as fully and as well manned as possible before we declare war, and every one must grant, that both the courage and fidelity of the seamen who enter voluntarily into his majesty's service, is more to be depended on than the courage or fidelity of those who are pressed into the service. Is it not then 'now' necessary for us, as we are upon the very brink of a war, to take every method that can be thought of for encouraging able and expert seamen to enter into his majesty's service? Will any one say, that our seamen's having a chance to enrich themselves by captures, is not an encouragement for them to enter into his majesty's service? Will any gentleman, who has the honour to be of his majesty's council, stand up in his place and declare to the House, that such terms of accommodation have been offered as may, with a little amendment, prevent an open war?

But why should I say, Sir, prevent an open war? An open war is already begun: the French have attacked his majesty's troops in America, and in return his majesty's ships have attacked the French king's ships in that part of the world. Is not this an open war? The ceremony of a declaration of war may be necessary for giving notice of the rupture to neutral powers, but it can no way be necessary for giving notice to either of the contending parties to prepare for defending themselves, or for annoying the enemy. By the law, as it now stands, a declaration of war is indeed necessary for giving our seamen a certain and legal right to any share of the captures they have already made, or may hereafter make: I shall most readily grant, that they have not in strict law a right to any, even the smallest share of the prizes they take; but this is the very reason why this Bill has been proposed, and why, I think, it is 'now' necessary. I am so far from thinking it 'now' unnecessary to pass any such Bill, that I think some such Bill ought to have been passed before the end of last session, or at least as soon as possible after his majesty had resolved upon issuing letters of reprizal; for the reprizals issued upon this occasion were surely of a very different nature from

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those issued on account of any private injury: they were a sort of prelude to a declaration of war; and therefore it might have been publicly declared, either by act of parliament or by his majesty's proclamation, that in case the obstinacy of the French court should render a solemn declaration of war necessary, the property of all ships taken by way of reprizal before such declaration, should from that moment become vested in the captors.

If such a declaration, Sir, had been publicly made, as soon as the orders were first issued for seizing the French ships, I am persuaded, we should have had very little occasion for pressing, especially if care had been taken, that no ship should have a greater number of able and expert seamen than was sufficient for working the ship, and that the rest of every ship's complement should be made up of marines or landmen; for I cannot agree with the hon. gentleman who spoke last, that we never have, at the eve of a war, a sufficient stock of seamen for supplying both our trade and our navy: in time of peace, we know, that none but able and expert seamen are employed, either in the navy or the merchant service; but every one knows, that, even in the merchant service, a certain number of landmen, in proportion to the number of expert seamen, may be safely employed, and on board our ships of war, the far greatest part of the ship's complement may be made up of landmen or marines; therefore by proper care, and a proper distribution of such as are able and expert seamen, I think, we may always be able to supply both our trade and our navy, even at the eve of a war; though at the same time I hope, that at the end of the next war, and of every future war we shall be hereafter engaged in, it will be resolved, not to make at once such a great reduction of the number of seamen in the public service, as was made at the end of the last war; for every war, especially if it be of any continuance, must greatly increase the number of our seamen, and such numbers of seamen cannot immediately fall into a way of supporting themselves by any employment at land; therefore the reduction should always be made by degrees; and, perhaps, it may hereafter be thought necessary to keep on foot, even in time of peace, a certain number of marine regiments, instead of an equal number of regiments of land soldiers; because the former may be bred up and accustomed to serve either by land or sea, according as their country may have occasion; for a man who from his youth has been bred at sea, may more easily, and in shorter time, be taught the land discipline, than a man who from his infancy has been bred at land, can be taught both the land discipline, and the business of a seaman.

Therefore, Sir, if we found ourselves in any distress for want of a sufficient number of seamen upon the present occasion, the distress was owing to the weak measures we have pursued since the conclusion of the last war: and that distress has been greatly increased by our not taking proper methods to encourage our seamen to enter voluntarily into the king's service. We have hitherto thought of no methods for procuring seamen for the navy, but such as old lechers make use of for debauching young women, which are only bribery and force: the rewards offered by proclamation, which was a sort of bribery, could have no effect, whilst every good seaman knew, that he could get a great deal more by the increase of wages in the merchant service; and when our marine ministers found that this would not do, they presently had recourse to force, as they thought they had a power to compel or press seamen into the king's service whenever they pleased: nay, they even began, I believe, with the method of pressing, before they had experienced the effect of bribery, that is to say, of the reward offered by proclamation; and not only press-gangs were spread over the whole kingdom, but the military were ordered to be assisting to those press-gangs; so that a midshipman or sea-lieutenant, with a press warrant in his pocket, was erected into a civil magistrate, who could call the military to his assistance whenever he thought he had occasion for it, which would certainly be as often as he was committing any act of unnecessary violence, or downright oppression.

Was this legal, Sir? Was it agreeable to our constitution? Was it not directly contrary to Magna Charta, which expressly declares, 'Nullus liber homo capiatur, aut imprisonetur, nisi, per legale judicium parium suorum, vel per legem terræ.' "No freeman shall be taken, or imprisoned, unless by the legal judgment of his peers, or by the law of the land." I shall grant, Sir, that immemorial custom has expressly authorized, and that even a late statute has by implication authorized the pressing of seamen, in cases of absolute necessity, but

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no such necessity can ever exist, if there be time for trying any other method, and when there is time no such necessity can ever exist until after every other method has been tried; from whence I must conclude, that our pressing of seamen upon this last occasion was not authorized either by custom or statute, and consequently it was absolutely illegal; because, as we had sufficient warning, there was time enough for our having tried other methods, especially the method now proposed; for if it had been possible for our ministers to take any warning, the French had given us sufficient warning to prepare for war, before even the beginning of last session, as they had for several years before been plundering our people, and building forts upon our territories in America, and as we had before then an account of their having attacked Mr. Washington, and dispossessed us of one of our forts upon the back of Virginia. It is indeed surprizing, that our ministers did not last session propose the employing of a much greater number of seamen for the year ensuing, because the parliament would certainly have agreed to it, and suppose they had then been resolved to do nothing but negociate, it would have added weight to their negociation, and might, perhaps, have prevented a war which now seems inevitable: at least it would have prevented our being in so great distress for want of seamen, as we were when his majesty had resolved upon fitting out a strong squadron, which was a long time before the end of the session, consequently such a Bill as is now proposed ought then to have been passed, as it would probably have, in a great measure, prevented our being under any necessity to press men into the sea service, especially as we had then a considerable number of line of battle ships in commission, besides a great number of frigates and sloops, whose complements, I must suppose, then consisted entirely of expert and able-bodied seamen, as none but such are in time of peace employed in the navy, and consequently we could not have occasion for any great additional number of seamen, because at least an equal number, perhaps twice the number of landmen might have been added to the seamen we then had in pay.

But now suppose, Sir, that we had been under an absolute necessity upon the late occasion to have recourse to pressing, and that consequently it was authorised by law, yet no one will pretend to say, that our employing the military, either to press or to protect the press-gangs, was authorized either by custom, or by statute; nor can it be said, that the employing of the military, for either of these purposes, was any way necessary; because if a regular press-gang should be insulted or attacked by a riotous mob, the civil magistrate is, by his office, obliged to protect them; and if any mob should refuse to disperse, or dare to prevent his reading or making the proclamation against riots, he may then, by law, call the military to his assistance. This can never be of any dangerous consequence to our constitution, or to the liberties of the subject; because the civil magistrate is to be the judge, whether the press-gangs have behaved themselves regularly or no, and the military is to be under his direction. But to order our regular troops to assist or to protect our press-gangs, without the interposition of a civil magistrate, is a direct breach of our constitution, and of the most dangerous consequence to the lives as well as the liberties of the people; therefore if any such orders have been issued to our regular troops, in any part of the united kingdom, I hope, that a strict enquiry will be made into it, and I am sure every man who has a regard for the liberties of his country must think, that the advisers and authors of such an arbitrary measure ought to be severely punished.

I believe, Sir, it will now appear, that, with regard to pressing, our ministers have, in several respects, made a little too free with our constitution, therefore it is high time for the parliament to take this practice, which smells so rank of arbitrary power, into their most serious consideration, and to embrace every method that can be thought of for preventing, or rendering less frequent the necessity of our having recourse to that unjust and violent practice. All the other subjects of Great Britain may sit secure under their own fig-tree, without being in danger of ever being called out to serve the public in any station, unless it comes to their turn, or they voluntarily engage in the service; but our seamen, a sort of men whom of all others we ought most to indulge, can never be secure, whilst they are under the age of 55. After a seaman, by hard service for many years at sea, has earned and saved as much as may establish him in a quiet retreat at land, he does not know but that in six months, or a less time, he

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may be torn from his wife and family, and forced again to undergo all the fatigues and perils of a common seaman, without any certainty of ever being released, whilst he is fit for serving in that station. Does not justice, humanity, and gratitude require, that our seamen should be exempted as much as possible from this unfortunate condition? Can this be done any other way but by engaging seamen to enter voluntarily into the king's service? Has not the most effectual way for this purpose been found to be, by investing the property of all prizes in the captors? Of this our parliaments have been so well convinced, that we have a standing law for it, which must always take place as soon as the crown declares war against any nation, and will always be a great encouragement for our seamen to enter voluntarily into the service of the crown, as soon as they hear that war is declared.

But, Sir, the crown may engage in war, and may continue it for many years, without declaring war. In Charles the 2nd's first war against the Dutch, there was never any declaration of war; and queen Elizabeth carried on a war against Spain for many years, without having ever declared war. So his majesty may now carry on a war against France, without any solemn declaration of war, and with much more reason than in either of the cases I have mentioned; for the present war against France is on our side plainly defensive, as much as any war ever was. They have attacked us in America, and our seizing their ships, and keeping their seamen prisoners, is with a design to prevent their attacking us here at home, as well as to prevent their pursuing the attack they have made upon us in America. The war is therefore, on our side, purely defensive; and with respect to such a war Plato's maxim has always been received, 'Quod ad propulsandam vim, non à caducatore sed à natura bellum indictum est.' But until the war be solemnly declared, the captors have no legal right to any share of the prizes they take, unless the crown, that is to say the ministers of the crown, shall please to give it them: they do not know but that the whole produce of their prizes may be applied towards inducing voters to serve the ministers at elections, instead of applying it towards inducing seamen to serve their country on board our navy; and whilst they are left in such a doubt, can we expect that any great number of them will enter voluntarily into the service of the crown, or that they will serve with spirit after they have entered, or been pressed into the service?

The case of the ships now taken from the French is very different, Sir, from that of the ships taken from the Spaniards, before our declaration of war against that nation. The Spaniards had not only committed great depredations upon our merchants, but they had actually promised a large sum of money, by way of indemnification to our merchants. This sum of money they afterwards refused to pay; and for this we issued letters of reprisal against them. But the injuries and insults we have received from France are almost wholly national; they have, it is true, plundered and imprisoned some of our Indian traders in America; but one of the ships we have taken from them would do more than make good all the damage they have done to the private subjects of Great Britain. Therefore our taking their ships upon this occasion cannot properly be said to be done by way of reprizal: it has been done, and justly done, in resentment of the insults they have designedly put upon the nation, and for making good the expence we have been, or may be put to, in doing ourselves that justice which they have obstinately and contemptuously refused. No private sufferer can therefore pretend a right to any share of the prizes we have taken; consequently the public may, and ought to dispose of them in that way which is most for the interest of the nation, and this is what is designed by the Bill now proposed.

Whatever specious pretences may be made use of, Sir, no solid reason has been, or can be assigned against the Bill: nothing can prevent our passing such a Bill as soon as possible, but a formed design to submit to an ignominious peace, by restoring all the ships we have taken, or shall hereafter take, and perhaps to still more ruinous terms; for if we do not deliver the territories of all our Indian allies, as well as our own in America, from every French fort, and every French garrison, we may give up our plantations, as well as the ships we have taken. Now, Sir, or never, is the time for us to command an honourable peace: if we now submit to any sort of ignominious terms, we must submit for ever: the ministers of Versailles will, upon every occasion, dictate to the ministers of England, what measures they are to pursue; and our king must submit to be a sort of viceroy under his most Christian

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majesty. Therefore, as a servant of the crown, as well as a faithful subject, I think myself in duty bound to strengthen his majesty's hands as much as possible, whilst we have a chance for preserving our independency, and this cannot any way at present be done more effectually, than by passing the Bill now proposed; for whilst I have the honour of a seat in this assembly, I shall never by my voice, or vote, authorize or approve of our submitting to any encroachment, insult, or indignity, rather than begin, or repel hostilities, which was our conduct during the long administration of a late minister, and which has brough this nation into that distressed condition every gentleman now seems to be so sensible of; for it was during his administration, that the French established themselves upon the river Mississippi, upon the Great Lakes, and upon the Lake Corlaer, in America, every one of which establishments we had a right to oppose, and would have opposed or defeated, if we had acted with spirit, or been governed by our own interest; and it was during the same administration, that the French were allowed to possess themselves of Lorrain, and to establish two branches of their royal house in Italy.

The hon. gentleman may therefore, if he pleases, Sir, declare himself proud of having been the constant friend of that minister; but what we now feel may make me, I think, as proud of declaring, that I constantly opposed him as a minister, and yet after he resigned, I always spoke well of him as a man. Gentlemen may laugh, if they please, but I can perceive no joke in what I have said: it is only a proof that my opposition did not proceed from any personal resentment, nor my praise from any design to flatter. It is true, he had for many years an amazing influence in this House, and the enquiry, stifled as it was, made it pretty evident from whence that influence proceeded. However, if ever the hon. gentleman should come to be possessed of his power, I wish he may adopt his moderation, as well as he has adopted his conduct with regard to a Bill which was of the same nature with the Bill now proposed, though I must observe, that the minister's conduct, with regard to that Bill, has been misrepresented in this debate: his true reason for opposing it, was not because it was unseasonable, but because there was a most infamous Convention with Spain then upon the anvil, which he was encouraged to agree to by this House throwing out that Bill; and such another consequence, but a more fatal one, may ensue, should we reject the motion now made to us.

Mr. Attorney General *Murray:*

Sir; there has already been so much said in this debate, and the arguments both for and against this motion have been stated in so full and so clear a light, that I can do little more than sum up what has been said upon both sides of the question, which I shall do in as short and as impartial a manner as I can, because, I believe, the more distinctly, the more briefly it is stated, the more it is divested of the surprizes of wit, and the flowers of eloquence, the more the arguments will preponderate against our agreeing so early in the session to such a motion. In pursuance of what I have now proposed, Sir, I shall consider the advantages and the disadvantages of our now ordering such a Bill as this to be brought in. I must repeat the word 'now,' Sir, because notwithstanding the ridiculous light it has been placed in by the hon. gentleman who spoke last, it is of the utmost consequence in this debate. He, indeed, has the happy faculty of being able to turn the most important word, the most serious argument, into ridicule, and to give a seeming weight and importance to the most useless words, the most trifling arguments, that can be made use of in any debate; but though he is by nature endowed with this extraordinary quality, yet I am persuaded, he never makes use of it, but to enforce what in the main he takes to be right. However, as every gentleman in this House has a right to judge as well as he, and as the talent of a solid judgment is very different from that of a florid eloquence, I hope, every gentleman will consider the arguments that have been made use of, without regard to the gaudy dress in which they have been decked, either by the one side or the other.

Now, Sir, with respect to the advantages proposed by this Bill, I think, the only one that has been so much as suggested is, that it may induce many of our seamen to enter themselves on board his majesty's ships of war, and thereby prevent the necessity we are under for pressing men into that service. How precarious is this advantage, or rather how vain is this expectation? It is not, I think, intended by the Bill, that the property of

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the ships taken, or to be taken, shall be vested in the captors, until after a war has been declared, or at least until after the ships have been condemned as lawful prize; but neither of these may ever happen: nay, I hope, that neither shall ever happen; for if the French court should amicably adjust all the disputes now subsisting between us, and make us proper satisfaction for the expence they have put us to, and the damage they have done to some of our people, the ships we have taken or may hereafter take, not only may, but ought to be restored; and this the French court will do, if they are well advised; for as they have upon the continent of America a greater extent of territory uncontested at least, by us, than they can plant and people for several ages to come, they cannot propose to get much present advantage by a war with this nation, and may lose a great deal, because the consequence may be, and most probably will be, their being drove out of every thing they now possess in America. It is therefore, I think, a very great chance, whether the ships we have taken, or may hereafter take, shall ever be condemned or no, and this uncertainty will prevent every seaman's listing in the government's service, who thinks only of the advantage he may reap by it: nay, were the chance of advantage much more certain than it is, yet as it is a future advantage, and the high wages a seaman may have in the merchant service is a present advantage, I believe, were the Bill now passed into a law, very few of our seamen, at least of the mercenary part of them, would incline to prefer the former to the latter; and as to such of them as are governed by honour, and a regard for the interest and glory of their country, which, I hope, most of them are, we shall have them, without our passing any such Bill, as soon as they respectively return from the voyages in which they are now engaged.

From this, Sir, which is the plain and the true state of the case, I think, I have the strongest reason to conclude, that our agreeing to this motion, or even passing the Bill proposed, would not of itself induce any one seaman to list himself in the government's service, were we even to continue for a twelvemonth to come, in our present state of uncertainty: but as it is certain that three or four months will determine our fate as to peace or war, and as, by the law now in being, the property of all prizes taken after a declaration of war, is vested in the captors, even supposing, that such a Bill would, in time, have some effect, yet we cannot suppose, that it could have any considerable effect in so short a time as three or four months; and for such a trifling advantage, were we sure of it, we ought not in common prudence to risk exposing our country to all the disadvantages with which our bringing in such a Bill at this time may be attended, which leads me to consider those disadvantages. Upon this subject, Sir, I shall begin with acknowledging, that our present situation is extremely critical: Our present disputes with France, though in themselves but trifling, are nevertheless in their consequences of the highest importance: so important, that in all human appearance, now or never is the time for our establishing the trade, the naval power, the independency of this kingdom, upon a firm basis; if we should now, by an unsuccessful war, be forced to submit to an ignominious peace, for, I am sure, our present sovereign will never otherwise submit to it: I say, if we should now, by an unsuccessful war, be forced to submit to an ignominious peace, we shall never hereafter in all probability, be able to contradict or disobey the dictates of the court of Versailles. This, I shall grant, Sir, is our present situation. But in such a critical, such an important, such a dangerous situation, ought we to proceed with precipitancy? Ought we in any thing to be swayed by the voice of the petulant, the unthinking vulgar without doors? If by the obstinacy of the court of France our present disputes with that nation should terminate in a declared war, we have, thank God! no great reason to dread the issue, provided we can prevent their being assisted by any other of the chief powers in Europe.

This, Sir, is what we are with the utmost circumspection to guard against; and to do this requires a thorough knowledge of the present circumstances of Europe, and a clear insight into the present sentiments of all the chief courts thereof. Have we in this House, can we have such a knowledge, or such an insight? Why then should we, without any intimation from his majesty, rashly resolve, for so I must call it, upon any measure relating to peace or war, especially a measure, which in itself virtually contains a sort of declaration of war? Have we any reason to distrust his majesty's wisdom, or his attention to the honour and interest of this kingdom? Or

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can we suppose, that he would not, either by message, or some other ways, have intimated his desire to have such a Bill passed, had he thought it necessary, and consistent with prudence in our present critical situation? Sir, there is a punctilio of honour, which nations, as well as private men, must upon all occasions have a regard to; and as our ordering such a Bill to be brought in certainly implies some sort of menace, some sort of defiance to the French nation, how do we know but that other courts of Europe might think the honour of that nation so much affected thereby, as to render it impossible for them, consistently with their honour, to submit to any further negociation or mediation, with regard to the disputes now subsisting between us. And if any court in Europe should think so, might not they be thereby provoked to join with France against us, in order to pull down what they would of course call the pride and the haughtiness of this nation?

Would not this be a misfortune to us, Sir? Is it not a disadvantage that may probably attend our ordering such Bill to be brought in? And is it not to be the more cautiously guarded against, as there is no nation in Europe from whence we could expect any assistance, at least no nation whose assistance would not be rather a burden than an advantage to us, as we should thereby be involved in a land war upon the continent of Europe, the burden whereof we now know by fatal experience? Another disadvantage, Sir, which will attend such a Bill as this, is, that it will give the French a title to demand the restitution of all the ships we have taken or shall take before a declaration of war; for ships taken merely by way of reprizal, are to be restored upon satisfaction being made for the damage on account of which they were taken. Therefore it is not our business to suppose that we are now at actual war; and indeed it is certain that we are now in a state of war, though no solemn declaration of war has as yet been made on either side, but mutual hostilities have been committed, which is a declaration in fact, though not in words. In any future treaty with France we must insist upon its being now a state of war between the two nations, but the French will certainly deny that it was so, and if such a Bill as this should be passed into a law, they will produce our own act of parliament in support of that denial, as they now produce our own ridiculous maps and historians in support of their pretensions in America.

And a third disadvantage attending such a Bill as this, Sir, is, that it will tend to alienate the affections of our seamen, both officers and common men, from his majesty. If war should be declared, or if his majesty should think fit to order his courts of admiralty to try and condemn all the ships that may then have been taken, which he may do without a declaration of war, as it was done in the first Dutch war in Charles the 2nd's time, and in the long Spanish war in the reign of queen Elizabeth, which, indeed continued with very little interruption until the year 1597. I say, if his majesty should think fit to do so, I am persuaded, no one doubts but that he will then order the produce, or the greatest part of the produce of the condemned prizes to be divided amongst the captors, and the captors will then impute the advantage they from hence receive wholly to his majesty's goodness and generosity. But if such a Bill as this should be passed into a law, our seamen will be apt to suppose, that some of the leading men in parliament had discovered, that his majesty had resolved to appropriate to himself alone the whole produce of all the prizes that should be taken; and consequently they will be so far from imputing any thing to his majesty's goodness or generosity, that they will harbour in their breasts a secret grudge or resentment against their sovereign; which may be of such a dangerous consequence, that I wish no motion for such a Bill had ever been made in this House; because the very motion will derogate in some degree from the merit of that bounty which his majesty always was, and still is resolved to bestow upon his brave seamen, as soon as he can do so consistently with the safety and happiness of his people in general, and otherwise, or till then, I am sure, no brave and honest seamen would or will expect it.

Now, Sir, let us consider what we are to do by agreeing to this motion: we are to expose ourselves to the danger of provoking some of the chief powers of Europe to join with France against us: we are to render any future treaty of peace much more intricate than it would otherwise be; and we are to run a great risk of alienating the affections of all our seamen from his present majesty. And all this for the sake of what? For the sake of inducing half a dozen mercenary

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seamen to list themselves into the government's service, for this, I am convinced, is the highest number that could in three or four months be induced, merely by such a Bill, to enter voluntarily into the government's service, and even that number we are far from being sure of. Let gentlemen then, Sir, consider the motion in this, which is the true light, and then let them determine whether they will not join with me in giving their negative to the previous question.

Mr. *George Haldane:*

Sir; I was very much surprised to hear the hon. and learned gentleman so much as suggest, that the Bill now proposed contains any thing like a declaration of war, after having heard from almost every gentleman who has spoke in its favour, that the Bill is not to be of any force unless a war be actually declared. Our passing such a Bill will therefore be so far from being a sort of declaration of war, that it will be a proof, and must be looked on by all Europe as a proof, of our being resolved not to enter into a war, unless forced to it by the injustice and obstinacy of the court of France. Such a Bill cannot be considered by any court in Europe, no not even by the court of France itself, but only as a method of preparing for war, and if any such method could be called a declaration of war, surely our voting 50,000 men for the sea service, as we did but a few days since, ought much rather to be considered as a declaration of war. Such a Bill as this now proposed, is really a necessary consequence of that resolution; and must be agreed to, otherwise that resolution will, to the whole world, appear to be ridiculous; for what signifies voting such a number of seamen, unless we take the most proper method for raising them? I must beg that gentlemen will have some little regard to the character, the honour and dignity of this august assembly, by considering what the people without doors will think of our one day voting 50,000 men for the sea service, and the next day rejecting that which has by experience been found to be the most effectual method for raising them, as well as the most agreeable to the constitution of our government.

Whoever does this, Sir, will, I am sure, readily concur in ordering this Bill to be brought in, and I am equally sure, that no man, either abroad or at home, who understands any thing of the punctilio of honour, can think, that the honour of France will be more deeply engaged by our passing such a Bill as this, than it has been by our seizing their ships, and imprisoning their seamen. Whether they still continue to amuse us with a negociation, as they have done for several years past, is what I know nothing of; but if they do, and are now at last become sincere, I am sure, our passing such a Bill as this can give them no occasion to think themselves bound in honour to break it off; and if they still design nothing but amusement, the sooner they break it off the better for us. We ought ourselves to break it off; for after negociating, and tamely suffering their encroachments and insults, for so many years, no court in Europe could find fault with us, should we now send our *ultimatum* to the court of France, and demand a positive and categorical answer in a month or six weeks time.

With regard to the first disadvantage, therefore, which the hon. and learned gentleman supposed our agreeing to this motion would be attended with, it is evident, I think, Sir, that there is not the least foundation for our being under any such apprehension; and with regard to the restitution of the ships and cargoes which we have taken, or shall take before a declaration of war, the Bill proposed, if passed into a law, could not any way affect that restitution, as neither ship nor cargo is to be appropriated to the captors, until after a declaration of war; and after our having passed this Bill, the French can have no better title to that restitution than they have at present; for supposing the ships to have been taken by way of reprizal, or supposing they have been taken as a pledge for the damage they have done us, and the expence they have put us to, they can in no case have any pretence to demand restitution, without offering to make good all that damage and expence; and this, I am convinced, does already amount to more than the value of all the ships we have taken, or may take, before a declaration of war: they will make this demand, if they find that our ministers are so pusillanimous as to dread coming to an open war: but in no case will they demand restitution of the ships and cargoes themselves; nor could we make it if they should, even though this motion were rejected; because many of the cargoes, and perhaps some of the ships, are already become rotten by lying in our harbours;

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and this makes me think, that a war, which some gentlemen seem now to be so much afraid of, is already become inevitable; for the French court will, I believe, insist peremptorily upon being paid the value of all the ships and cargoes we have taken, without any allowance for our damage or expence, and this, I believe, no British minister will venture to advise his majesty to agree to, nor will a British parliament grant the money for such a purpose, as long as we have a ship that dare swim the ocean.

This consideration, Sir, should make us the less concerned about what may be the consequences of our passing such a Bill as is now proposed; for as war is, in my opinion, become inevitable, we should neglect nothing that may in the least tend to enable us to prosecute it with vigour, that we may, as I trust in God we shall, end it with glory. That the Bill now proposed will have such a tendency is not to be doubted: nay, this has in some degree been allowed by every gentleman that has spoke against it: it will not only induce some, I think many seamen, to enter into his majesty's service, but it will revive the spirits of all those that are in his service: I say, revive, Sir, for their spirits have been very much flattened by observing so many prizes brought in, and no step taken towards giving them, or any thing in lieu of them, to the captors. This they expected: this they had reason to expect; and their disappointment operates the more strongly, as they suspect, that this new method of commencing and carrying on a war, has been resolved on, with a design to deprive them of the advantage they would by express law have had a right to, had the war been commenced in the usual open and generous manner.

Our brave seamen, Sir, are too loyal to impute any disappointment, or any oppression they meet with, to their sovereign. That the king can do no wrong, is a maxim riveted in their breasts, not by churchmen or lawyers, but by early education, and the continual practice of loyalty; therefore we have no occasion to apprehend that this motion, or our passing such a Bill as this, can alienate the affections of any one seaman from his majesty; it may, indeed, give them cause to think, that we in this House are better and more faithful counsellors to our sovereign than any of his ministers; and I hope, that not only all our seamen, but all our soldiers, will for ever think so. Therefore, Sir, I am so far from being sorry at this motion having been now made, that I am glad it has been made without so much as a hint from any of those who call themselves the servants of the crown: if they had been wise and vigilant servants such a Bill as this would have been moved by them, and passed by this House, before the end of last session, or at least such a motion as this would have been made last week by them, as soon as the House had agreed to the resolution of our committee of supply, for employing 50,000 men in the sea service for the ensuing year; and if they have been ignorant or negligent of their duty to their king and country, it can be no reason against the defect being supplied by any member of this House, who is so lucky as to foresee what will be so necessary for the public service.

Thus, Sir, it must appear, that no disadvantage can attend our bringing in and passing such a Bill, that a very great advantage will probably result even from its being ordered to be brought in, and that it is become absolutely necessary to bring it in as soon as possible, in order to enable us to prepare for a war, which the conduct of our ministers has already made inevitable. Nothing therefore can, I think, prevent this motion being agreed to, but a fawning complaisance for the court of France, taken up by some amongst us, after perceiving that the hectoring countenance they lately put on, is not like to produce the effect they expected. But supposing that we still have some ground to hope for an amicable end to the disputes now subsisting between France and us, and that it would be improper, while such hopes are depending, to have such a Bill passed into a law, even this can be no argument against our ordering such a Bill to be brought in, because it is allowed, on all hands, that in two or three months every hope of this kind must be absolutely determined; and though the Bill were now ordered to be brought in, it will be two or three months before it can be passed into a law, as the act now in being relating to the disposal of prizes, stands in need of many amendments, especially with regard to agents, who during the last war were too apt to convert to their own use, or to detain in their own hands, that property which should have been, immediately after their receiving it, distributed among our brave seamen.

Therefore, Sir, if the Bill should be now ordered to be brought in, and a peace

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should ensue before its being passed into a law, we may then drop the Bill entirely, or alter it as our then circumstances may render necessary. But I can see no impropriety in our passing such a Bill, even whilst our hopes of peace are depending; because it is not proposed to enact, that the property of any of the prizes taken or to be taken, shall be vested in the captors, until after a declaration of war; consequently if the Bill should be passed, and afterwards a peace should ensue, before any declaration of war, that part of the Bill could have no effect, with regard to the property or disposal of the prizes, but would have a considerable effect with regard to the increase of their number, and with regard to the enabling us to prepare for war, upon which alone our hopes of an honourable peace can be well founded; for such a peace can never be obtained by fawning and cringing, but by shewing, that we are as ready to appear sword in hand, as we are to bully and threaten that we will.

I have now, I hope, Sir, answered all the arguments made use of by the hon. and learned gentleman against this motion, But before I sit down, I must take notice of a very extraordinary doctrine that has been broached by another hon. gentleman upon this occasion. He was pleased to tell us, that the property of all the ships already taken is vested in the crown, and that consequently we cannot order in a Bill for disposing of that property, without the previous consent of the crown, signified to us by message. This, Sir, is a doctrine which I wish had not been mentioned upon this occasion. It has already raised a flame in a neighbouring kingdom, and, if ever insisted on, it will raise a flame in this. It is very true, that our kings have of late been so gracious as to signify by message their consent, as often as any Bill was, or was to be brought in, by which the property of the crown might be affected, and this House could never, in common decency, refuse to accept of such a gracious message when it was offered; but, I believe, it has never yet been pretended, that such a previous consent was absolutely necessary, or that this House could not order in, or even pass such a Bill, without any such previous consent; and I hope, no such thing will ever be contended for in this kingdom: for every property vested in the crown by our constitution, is so vested in trust for the use of the public: and either House of Parliament may, without the previous consent of the crown, not only inquire into the application of it, but may punish those ministers who have, in their respective departments, advised or consented to any misapplication. Surely then, *à fortiori*, a Bill for the application may, without any previous consent, be ordered in and passed by either House of Parliament, though it cannot obtain the force or effect of a law without the royal assent. By the royal assent being necessary for the passing of every Bill into a law, the rights of the crown are sufficiently guarded; and the parliament neither can, nor, I hope, will ever attempt to dispose of any property vested in the crown, without the royal assent; therefore no wise and faithful minister will ever insist upon a previous consent being necessary, before such a Bill can be passed by either House of Parliament, much less will he insist upon a previous consent being necessary, before leave be given by this House to bring in such a Bill; and consequently, without enlarging any further upon the subject, I believe, I may conclude with declaring, that I shall most heartily give my affirmative to the previous question, and my vote for leave to bring in the Bill which the noble lord has been pleased to propose.

Upon a division the motion was negatived, by 211 against 81. However, on the 18th of May following, that is to say, the day after war had been declared, the same motion was renewed, and then it was ordered, *nem. con.* that leave be given to bring in the said Bill, and the lord Pulteney immediately presented it to the House, when it was read the first, and ordered to be read a second time the next morning, which it accordingly was, and passed through all the other forms without opposition.

*Debate in the Lords on a Motion for a Vote of Censure on the Treaties with Russia and Hesse Cassel.**] December 10. The House, according to order, proceeded to take into consideration of the two Subsidiary Treaties lately concluded with the empress of Russia and the landgrave of Hesse Cassel. The said Treaties being read,†

* From the London Magazine.

† Notes of Debate on the Consideration of the Treaties with Russia and Hesse for

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Earl *Temple* rose:

My lords; I have waited, for some time, expecting that the noble lord who moved for the order of this day, would have stood up to propose something in consequence of his former motion; but as he seems not to be inclined to offer anything to the House upon this occasion, and as I think the order of this day deserves our most serious consideration, I must take upon me to propose what I think

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Troops and Subsidies. Dec. 10, 1755. From the Original, in the hand-writing of Lord Chancellor HARDWICKE.

Earl *Temple, contrà.* Lest silence should be misconstrued a tacit approbation.—Has already more than once made his objections—Measures so unwisely, so unably, and so criminally taken—Defensive and preventive they will be called—At the conclusion of the last war, this nation reduced not only to the brink of bankruptcy, but even to bankruptcy itself—These measures tend to invite France to attack Hanover—To reduce a great prince of the empire to the necessity of taking part against us.—The war, as now limited, will this year cost near seven millions.—This country exposed as a prey—The first duty domestic security—Hanover under these Treaties has no less than 79,000 men for her defence alone—England with the enemy at their gates may be able to draw together one considerable body of troops for the defence of this metropolis—other succours unknown—for according to the modern practice made without the advice of parliament—The Treaty of 1747 not before this House till last week, yet the money voted upon it.

Before he goes into the consideration reads the Clause in the Act of Settlement—ought to have a liberal construction—No instance, in which any measures taken for a war for Hanover without previous consent of parliament—The Message to both Houses, and the Addresses—and Appropriation Clause—'Dominions' cannot be extended to any dominions but such as belong to the crown of Great Britain—Half the levy-money paid in direct violation of the Appropriation Clause—The Treaty of 1742 is the foundation of the whole—Observes on that—for the preservation of the tranquillity of the North in particular. Dominions which they were possessed of before the year 1741.

The present empress of Russia will not suffer these troops to march for any other consideration but for the defence of Hanover—It cannot be shewn that the court of Vienna is in a disposition to join in the defence of the Low Countries if attacked.—The administration have misapplied the million given the last year—The first service the most exceptionable of all—the bringing them into England—I enter my protest against that—They came over in 1745 but would not fight.

Is this that English administration? Enabled to give law to their master. Now the reins are let loose to subsidiary measures. The time will come when such measures as these will not only be deplored; but it will rise to punish those who have ventured to prefer a foreign favourite object to the essential interest of their country. Of all things I dread a spurious and insidious peace—Duty and gratitude which we owe to the king—Bear in mind the remembrance of his majesty's royal virtues—Concludes with a motion as to both the Treaties.

Earl of *Chesterfield, pro.* Three Considerations: 1. Contracted singly or chiefly for the defence of Hanover: 2. That they are offensive to the king of Prussia: 3. That you ought not to intermeddle in the affairs of the continent.—Immediately for the defence of Hanover.

A British Treaty.

1. Subsidies have run their race. I will put Hanover upon the foot of an ally, attacked upon the foot of an English interest. 2. Absolutely impossible that it can give offence to the king of Prussia. He will be glad of it. Enables him to give an answer to France. The 7th article looks no more towards the king of Prussia than the king of Siam.

3rd Consideration.

Obj. A violation of the Act of Settlement.

Ans. Not to engage you in a war merely for the sake of the foreign dominions—Here is the consent of parliament—But this not within it?—It is as connected with the interest of this country.

Obj. That the Russian Troops are to act by diversion.

Ans. That is to create a suspension of pay. Another argument—(I own ought seldom to be urged)—The Treaties are made. If you do not support them, you unmake them.—Then in Invasion—will not do this, unless you reject these Treaties—I do hope a Russian army will be eventually secured.

Earl of *Marchmont, pro.* Invectives no argument, epithets and reasons are of very different natures—Pursue it in the regular method of interpretation.

Earl of *Holderness, pro.* 1. Legality, with it—Applies to what has been done in consequence of it.

Earl of *Morton, pro.*

Earl of *Halifax, contrà.* Abhorrent to the disposition of parliament the last year. Considers it as a measure of precaution.—Disappointment of France in Spain's joining her by sea, and Prussia joining her by land.

Duke of *Bedford, pro.*
Lord Chancellor, pro.
Earl of *Pomfret, con.*
Duke of *Newcastle, pro.*
Lord *Ravensworth.*
Lord *Raymond, pro.*
Lord *Temple.*

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would be right for us to do upon an affair of such extraordinary importance. But I must first give my reasons for what I intend to conclude with, though I am far from being so fully prepared as such a copious subject would require; for considering the number of past transactions, and the length and variety of the treaties with which the two treaties now under our consideration have a connection, I should have wished to have had a much longer time to consider them, in order to have brought my thoughts into a regular method, and to have explained, in the clearest and shortest manner, my reasons for that censure which these two treaties to me appeared, at first view, to deserve. However, I shall do the best I can; and if there should seem to be a little confusion in my way of expressing myself, I hope your lordships will excuse it, on account of the little time I have had to prepare.

My lords; I shall begin, with allowing it to be highly probable, that we may soon be involved in a war against France, at sea, and in America, but I cannot see any probability of our having an occasion to involve ourselves in a war upon the continent of Europe. The balance of power at land, that plausible pretence formerly made use of, for involving us in expensive alliances and bloody wars, does not now seem to be in any danger: even our good allies the Dutch do not now seem to be in the least apprehensive of it; and as to the balance of power at sea, it evidently depends upon our exerting our whole strength on that element alone, and applying to that purpose alone all the money which it is possible for us to raise, therefore our engaging at this time in any expensive alliance upon the continent of Europe, is not only unnecessary, but must lessen the probability, if not prevent the possibility, of our being successful in the war we are now likely to be engaged in, which is for the protection of our navigation, our commerce, and our colonies, nay, for the preservation of this very island itself. Can the Russians be of any service to us in either of these respects? Can the Hessians?

As to the Russians, my lords, from the very treaty itself it appears, that they are not designed for any such service; and as to the Hessians, though they may by the treaty be brought over to this island, or sent to Ireland, yet it is expressly stipulated, that they shall not serve on board our fleet, or be sent to any of our colonies: and as to their being brought over hither, I hope never to see them again in this island. They were once brought here, but they did us very little service: I even doubt if they would have fought, if we had happened to have occasion for it; so that after our maintaining them here for some time, they were sent home again safe and sound, and well fed and well paid; soon after which they left us, in the very middle of the war, and when we had most occasion for their service: they not only left us, but joined with our enemies against us; and we have now less reason than ever to put any trust in them, considering whose power they are like very soon to fall under: the power of a convert to popery, who of course must be a bigot in that religion, as we may judge from the experience we had of our king James 2. Besides this, my lords, the very treaty itself furnishes us with a strong reason for not bringing them again into this island, and even for not sending them to Ireland, if we have any regard for our fellow-subjects in that kingdom: by the treaty it is expressly stipulated, that notwithstanding their being in our service and in our pay, they shall still continue under the sole jurisdiction of his most serene highness the landgrave of Hesse Cassel; so that if any of them should murder or rob any of our people, we can neither try nor punish them by our own laws or our own judges. I cannot think any Englishman had the penning of this article, for an Englishman would surely have made an exception as to any crimes they might commit against his own countrymen; and a time has been, when the passing of such an article under the great seal would not have escaped with a bare censure.

Thus it must appear, my lords, that neither the Russians nor the Hessians can be of any service, either for the protection of our commerce and colonies, or for the preservation of this island, and therefore I cannot comprehend why we should have entered into these treaties, or put ourselves to any such expence. Surely, we are not going to form an army of mercenaries upon the continent, in order to attack France by land. This would again bring us into a heavy war upon the continent of Europe, which we ought never to think of upon our own sole account: against any power in Europe we are able, and shall always best vindicate our own quarrels by ourselves alone, as we can with advantage

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attack any one of them by sea, and none of them can attack us by land; therefore we ought never to engage in a war upon the continent, but when called upon by those whose protection it is our interest to espouse, and when those who call upon us desire no more of our assistance than we can easily spare, which, I am sorry to say, is now but very inconsiderable, as we were taught by experience towards the end of last war. Though we were then called upon, and engaged without any particular quarrel of our own, yet before the end of it we were very near become bankrupt, and should have become absolutely so, had the war lasted but another year; for most of the subscribers to our last subscription would have been totally ruined, if the peace had not happened before their being obliged to make the 5th payment upon that subscription, as many of them had borrowed money at most extravagant premiums to make their former payments, and would have been utterly unable to make their future, if peace had not ensued, notwithstanding the indulgence granted them by parliament, with respect to the time of making their 5th and 6th payments upon that subscription.

My lords, if this was our case, in a war of but four years continuance, and a war in which we were called upon to engage, what must our case be in a war in which we call upon others to assist us, and a war which may last ten years, as that in queen Anne's reign did, notwithstanding the many glorious victories we obtained, and the almost uninterrupted success we met with. When we are called upon to engage in a war upon the continent, we may confine our expence to what we can easily spare, but when we call upon others to engage, we must extend it to whatever they may please to demand; consequently, if we now light up a war upon the continent of Europe, it must be much more expensive to us than the last, and how shall we be able to support such an expence for any number of years? It is supposed, that the expence of this year, for supporting the maritime war we are like to be engaged in, will amount to near 7 millions, consequently we must suppose that, if we at the same time engage in a land war, our expence will amount to 10 millions yearly. How shall we raise the money? We must borrow, if we can, 6 or 7 millions yearly; but if we should find lenders, who are both able and willing to lend, which is far from being certain, we have no fund to mortgage but the sinking fund, and even that would be exhausted in three or four years. In the mean time what a dangerous situation would our public credit be in? If that should give way, we should be ruined at once. Our paper-money would be like what superstition of old said of the devil's money: it would all turn to glass: nay, it would be worse; for a 100 guinea Bank note is not intrinsically worth near so much as 100 glass guineas. Upon such a dismal catastrophe every man that had any gold or silver would lock it up, and never issue a shilling of it but for necessary subsistence. In such a case it would be impossible for the people to find money to pay their taxes; so that instead of being able to carry on a land war, we should be unable to carry on any war, either by land or sea, or even to preserve the internal tranquillity of the country; for both our soldiers and sailors would mutiny for want of pay; and what might be the consequence no one can foretell, but every one must foresee, that it would be more fatal to the rich than to the poor.

My lords, I do not present you with this ugly prospect, in order to advise our agreeing to a dishonourable and insidious peace, but only to prevent our going into such measures as must necessarily end in such a peace; for such are the measures that these two treaties seem to prognosticate. They can be calculated for nothing else but a war upon the continent of Europe; and as neither the balance of power, nor the barrier, the two great objects of the care of our ancestors, now seem to be in any danger, we can have no call for engaging in such a war. If we had, I do not see how this treaty with Russia could be of any service; for as much the greatest part of their troops are, by the treaty, to make only a diversion, I doubt much if they would march either to Flanders or the Rhine. On the contrary, they seem plainly to be designed for making an attack upon the king of Prussia, as we may judge, both from the place where they are to be held in readiness, and the proximity of the countries wherein they are to make the proposed diversion, and likewise from this treaty being a renewal and extension of our treaty with Russia in 1742, which, every one knows, was expressly designed against Prussia, and was part of a project then formed for dividing the bearskin; which project was first conceived here, afterwards licked into form at the court of

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Vienna, and sent back to this country, but with a protest, that the queen of Hungary did not desire to have any share of the bearskin.

My lords, by that fatal project, we threw the king of Prussia into the arms of France, and thereby produced the following war in Germany, which cost this nation so many millions. Will not his Prussian majesty have good reason, from this renewal of that treaty, to apprehend a renewal of that project. He then, indeed, soon shewed that he had not engaged too far, or entered too deeply into the ambitious views of France; but as he cannot expect that the queen of Hungary will now have the same moderation, it will force him to engage with the court of France upon their own terms; and as France and Prussia will find allies, both in Germany and the North, these treaties seem to forebode our being engaged in as heavy a land war as this nation was ever engaged in, and a land war from whence, if successful, we can expect as little advantage, whatever may accrue to Hanover, as from any such war we ever before engaged in; but if unsuccessful, which I have shewn to be by much the most probable, it would certainly end in the utter ruin of this nation at least, if not of all those who, by our subsidies, may be induced to become our allies.

I know, my lords, it may be said, that both our treaty with Russia and with Hesse-Cassel, are merely defensive, and can never occasion any war upon the continent of Europe, unless the French should attack Hanover, or prevail with some of the neighbouring powers to attack that electorate, on account of the disputes they have with this nation. But we know what projects may be formed by sovereign powers, under the umbrage of defensive alliances: the project of 1742 is a proof of this: our then treaty with Russia was in appearance only a defensive alliance, but it was to be a foundation for a very offensive one: the king of Prussia knows this, and will certainly provide against it upon this occasion in the same way he did upon that: he will throw himself into the arms of France; but he must do so now without any reserve. Besides, my lords, I must observe, that our treaty with Hesse-Cassel cannot be said to be purely defensive: the stipulated number of troops is to be held in readiness, and furnished for the good of his majesty's kingdoms and states; and it may be thought for the good of his states in Germany, to add to them some of the states in their neighbourhood: I believe no one will say that it would not; and every neighbouring prince will make the application to himself, which will give the French a pretence to enter Germany as guarantees of the treaty of Westphalia.

By these two treaties, my lords, we really seem to be seeking an opportunity for kindling a war upon the continent, by giving the French a pretence for attacking Hanover, and a power to prevail with some of the neighbouring princes to join with them in the attack, neither of which they could ever acquire from any disputes they have with this nation; for if a war should from these disputes ensue between them and us, I believe no one supposes, that the electorate of Hanover either would or could furnish us with any assistance, or that we should desire any such assistance; and if the French should without any pretence send an army into Germany, it would unite the whole Germanic body against them. It might do more: it might raise a new confederacy against them; in which case we should be called upon, and might then furnish some assistance, because such a confederacy would stand in need of no greater assistance than we could easily spare.

But now suppose, my lords, that the French should without any pretence send an army into Germany to attack Hanover, and that the Germanic body and all the other powers of Europe, should look tamely on to see them possess themselves of that electorate, would it be in our power to prevent it? Should we be any way obliged to endeavour to prevent it? The contrary is expressly provided for by our Act of Settlement, which may be justly deemed our second Magna Charta. It is thereby enacted, that in case the crown should come to any person, not being a native of England, this nation shall not be obliged to engage in any war, for the defence of dominions not belonging to this crown. Now, as both these treaties are plainly calculated for the defence of Hanover, and can no way be supposed to be calculated for any thing else, I must look upon them to be expressly contrary to the Act of Settlement; and, consequently, I must think, that it was highly criminal in any minister to advise our entering into them, without a previous act of parliament for repealing, or at least suspending, *pro hac vice*, this clause in the Act of Settlement. And yet, notwithstanding our manifest

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inability to defend Hanover, without the unpurchased concurrence of the Germanic body, notwithstanding its being so directly contrary to the Act of Settlement, we seem more intent upon providing for the defence of that electorate, in case of a war with France, than upon providing for the defence of this kingdom; for, including the troops of Hanover, we have already provided near 100,000 men for the defence of Hanover, whereas this kingdom is as yet in so defenceless a condition, that I do not believe we could, in a week's time, draw four regiments together to oppose an invasion, in any part of the island, except just here about London. Nay, I am told, that a very large sum of money has already been issued on account of this treaty with Hesse-Cassel, though the treaty has not yet been approved, nor any money granted on that account by parliament, which issue I take to be inconsistent with our constitution, and directly contrary to the appropriation clause in an act of last session, as that money was issued merely for the security of his majesty's German, and not of his British dominions; but from this and many other instances, we may see how little the constitution, or the laws of this kingdom, are regarded by our ministers, when they stand in competition with the security, or the interest of the electorate of Hanover; for which reason, I think it is high time to give a check to such conduct in our ministers, and therefore I shall conclude with moving, "That it is the opinion of this House, that the two Subsidiary Treaties lately concluded with the empress of Russia and the landgrave of Hesse Cassel respectively tend to involve this nation in an expensive and ruinous war upon the continent, to consume our strength and treasure, and to divert us from the exertion of our utmost efforts for the defence of these kingdoms, threatened with invasion, and for the recovery and protection of our possessions in America, encroached upon, and actually invaded, by the arms of France."

The Earl of *Chesterfield*: *

My lords; in all controverted points, upon any subject whatever, it is the business of those who are led by some prejudice to engage upon the wrong side of the question, to avoid order and perspicuity as much as possible: like shopkeepers who sell damaged or insufficient wares, they take care to darken their windows. On the other hand, with respect to those who engage upon the right side of any question, it is their duty, and it ought to be their endeavour, to state their arguments in the most distinct, regular, and clear manner, that those who have any eyes or understanding may see the connection, and consequently must admit the conclusion. Now, as I am to embrace that, which I am fully convinced is the right side of the question now before us, I shall therefore state what I have to say in as distinct and regular a manner as I can, and for that purpose must begin with observing, that what the noble lord has been pleased to say, may be reduced to these three heads: first, That the treaties now before us were designed to engage us

* The Earl of Chesterfield to Mr. Dayrolles, Dec. 19, 1755.

"The House of Commons sits three or four times a week till nine or ten o'clock at night, and sometimes till four or five in the morning; so attentive are they to the good of their dear country. That zeal has of late transported them into much personal abuse. Even our insignificant House sat one day last week till past ten at night upon the Russian and Hessian Subsidiary Treaties; but I was not able to sit it out, and left it at seven, more than half dead: for I took it into my head to speak upon them for near an hour, which fatigue, together with the heat of the House, very near annihilated me. I was for the Russian Treaty, as a prudent eventual measure at the beginning of a war, and probably preventive even of a war, in that part of the world; but I could not help exposing, though without opposing, the Hessian Treaty; which is, indeed, the most extraordinary one I ever saw. It can have no effect, for you are not to have the troops till after you do not want them, viz. till six months after the requisition made; and after you dismiss the troops, should you ever call for them, the subsidy is to be doubled for the remainder of the term. It is certain, that his most serene highness is full as good at making a bargain as any Jew in Europe."

"The Subsidiary Treaties with the courts of Russia and Hesse Cassel, being submitted to the consideration of parliament, excited great debates in both Houses. Lord Chesterfield, who approved of the first as much as he disliked the second, spoke warmly, though without preparation, in defence of his opinion, in the House of Lords. He shone as usual, and did not seem to have lost any of his former vigour; but this exertion fatigued him so much, that he was obliged to be carried home immediately after, and never again appeared as a speaker in the House." Dr. Maty's Memoirs of Lord Chesterfield.

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in a war chiefly and merely for the sake of Hanover: secondly, That they would give offence to the king of Prussia; and, thirdly, That we ought never to engage in a war upon the continent of Europe.

As to the first of these three heads I shall grant, my lords, that these treaties were entered into for the sake of Hanover, that they were designed for nothing else but to prevent our being engaged in a land war upon the continent of Europe, upon that account or any other, in case we should find ourselves forced to enter into a maritime war against France; and that these treaties were necessary for this purpose, must appear evident to every one who considers the circumstances of the French power and ours. That the French are more powerful at land than we are, I believe no one will deny, and that we are as yet more powerful than they are at sea, I believe, even the French themselves will confess, though they are very unwilling to allow any nation in the world to be superior to them in any thing. In these circumstances, my lords, what could we expect? If we attacked them at sea, or in America, should we doubt of their resolving to engage us in a war at land, by attacking some of our allies upon the continent of Europe, unless we provided against it, by forming such a confederacy as would render us equal to their power at land, as well as superior to their power at sea? And as Hanover is of all our allies upon the continent of Europe, the ally with whom we have the most intimate connection, could we doubt of their resolving to attack Hanover, the moment we attacked them at sea; if we neglected to guard against it by such a confederacy as I have mentioned? My lords, they would have done so last summer, if no such treaties as these had been upon the anvil: we should long before now have heard of another French army being in Westphalia, or perhaps in Lower Saxony; for can we think that a nation which has long been as ready to resent as to injure, would have tamely submitted to see their ships taken and their people killed or imprisoned, if we had not prevented their attacking any of our allies, by the beginning of a grand alliance which, if provoked, might have brought them as low as ever they were brought by the last grand alliance that was formed against them.

Therefore, my lords, every one must see that, in order to secure Hanover, and thereby prevent our being engaged in a war upon the continent of Europe, it was necessary for us to think of forming a powerful confederacy upon the continent, before we resolved to commit any sort of hostilities against France, even supposing that Hanover were to be considered only as one of the allies of Great Britain. But I will go further, my lords, I will suppose that neither we nor our sovereign had any thing to do with Hanover, upon this supposition would it be consistent with the interest of this nation, would it be consistent with our security, to look tamely on, and see the French nestle themselves in the north of Germany? To suppose that such an attempt would unite the whole Germanic body against them, is to suppose an impossibility. They have, it is true, in the German empire, what they call a constitution; but if there was a *vis inertiæ* in any body whatsoever, it may justly be said to be by their constitution in the Germanic body, which renders it impossible for that body to defend itself, or any of its members. Their military scheme for such a purpose is much like our wise militia scheme formed in the reign of Charles 2, one prince is to furnish one man, another half a man, another, perhaps, two or three men, each in proportion to his principality: it is even worse than ours; for these men and half men, when furnished, are all to be under the generals of the empire, and each circle is not only to consent for itself, but to name its own officers. Thus they have not really, and in effect, any constitution at all in what is called the German empire: it is rather a confederacy of a great number of independent princes and states, who are not obliged to assist one another, but when the *casus fœderis* exists, and those that are remote from the danger will never allow that it does exist, if they have no private view of their own: those that are immediately exposed to the danger cry aloud, indeed, and claim the protection of the empire, but they are never heard by any of the rest who have no particular interest, and therefore this huge inert body must have been long since torn limb from limb, if the members had not, for many years past, been wise enough to choose a family for their head, that had power enough of its own to protect them; but that protection the Hanover member could not, upon the present occasion, have expected, if we had resolved to give no assistance.

This, my lords, the French court were

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fully apprised of, and therefore they would last summer have attacked Hanover, if they could have thereby expected to draw us into an unequal war upon the continent; but now, supposing that they could not have expected to draw us into such a war by attacking, or even by possessing themselves of Hanover, or any other part of Germany, can we think, that they would not have found some other method to draw us into such a war, if we had taken no method to prevent it? Suppose his most christian majesty had sent to the states-general, and insisted upon their being obliged, by their guarantee of the treaty of Aix la Chapelle, to assist him with their utmost maritime force, and that he had demanded this assistance under pain of his beginning a new war, as he ended the last, by the attack of their town of Maestricht, could they have refused such a demand? If they had, could they have defended themselves without a sufficient confederacy upon the continent? Could they have formed such a confederacy without our assistance? Therefore, it is to be supposed, that the neutrality of the Dutch will, if a war ensue, be chiefly owing to the two treaties now under our consideration. And if it were not for the same cause, the French would not, perhaps, have tamely suffered the neutrality either of Spain or Portugal. But when they perceived that we had engaged the powerful assistance of the great empire of Russia, as well as of one of the chief princes of Germany, in case they should attack either Hanover, or any other of our allies, they from thence foresaw, that it would be in our power to form such a confederacy upon the continent as they could not contend with, and therefore they gave over all thoughts, not only of making such an attack, but of daring to prescribe rules to the conduct of any court in Europe.

Thus, my lords, it must appear, that these treaties were designed, and necessarily as well as wisely designed for preventing our being engaged in a war upon the continent. They were made for the defence of our other allies upon the continent, as well as for the defence of Hanover, and they were not made for the defence of Hanover as a dominion belonging to his majesty, but as an electorate in alliance with the crown of Great Britain, which we are certainly bound to defend, as much as we are bound to defend any other ally, when unjustly attacked, and much more when unjustly attacked upon our account. Consequently, neither of these treaties can have any thing to do with our Act of Settlement, nor can any clause in that Act be supposed to be against our engaging in a war for the defence of the electorate of Hanover, or of any other of our allies upon the continent, when it appears evident that they are, or are like to be unjustly attacked; for if this could be supposed, it must be by the same rule supposed, that every defensive alliance we have made, and every guarantee we have entered into, since the accession of our present royal family to the throne, was treacherous and unjust, because it was engaging the public faith for our doing that which by our Act of Settlement we could not do.

Now, my lords, with regard to the second head which the noble lord was pleased to insist on, that these treaties, particularly that with Russia, would give offence to the king of Prussia: in my opinion, my lords, it will be so far from giving him offence, that it will give him great pleasure. We know that he is engaged in a defensive alliance with France; that he has a very considerable subsidy from France, near six times as much as we are obliged by this new treaty to pay to the great empire of Russia; and that he cannot well support the present expence of his army, even with all his œconomy, without that subsidy. If the present disputes between us and France should come to an open rupture, it is highly probable, nay, I think it is almost certain, that France will call upon him for the fulfilling of his engagements, and insist upon it that he is, in consequence thereof, at their desire, obliged to attack Hanover. From his extensive knowledge of affairs, and from his superior judgment, I think it is equally probable, and equally certain, that in case a war should ensue, he will conclude, that France is the aggressor, and consequently that he is not, by his defensive treaty, obliged, either in honour or conscience, to give them any assistance, much less to attack, at their desire, a prince, and a near relation too, who has done him no injury. This would have thrown him into a very great perplexity, if we had made no such treaty with Russia: he must either have forfeited, as the French court would have called it, his subsidy, or he must have acted against both his conscience and his interest. But by this treaty we have extricated him out of this difficulty. He may

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now answer, I must not venture to attack Hanover, because if I do, I shall be attacked on one side by the formidable power of the empire of Russia, and probably on the other by the House of Austria, assisted by some of the other princes of Germany, against which two attacks, even you, France, with all your power, cannot protect me, especially as you are yourself engaged in a maritime war with England, which it is impossible for you to support, and which must greatly disturb your finances by ruining your commerce.

This treaty with Russia will therefore, my lords, be so far from being an offence, that I am convinced, it will give great pleasure to the king of Prussia, as it will furnish him with an opportunity to preserve the subsidy he has from France, without being obliged to second or support them in any of their ambitious and unjust schemes against this nation, or any other nation in Europe, which, by his former conduct, he has shewn, he has naturally no inclination to do; consequently we have no reason to suppose, nor could he suppose, that this treaty was designed against him, but that it was designed against another power, which I have no occasion to name, and against that nation we had great reason to be upon our guard, because they have for many years behaved as if they had been a French colony. But, however they may for the future incline to behave, we have now no cause to fear what they may be able to do, as we have, by these treaties, provided such a respectable army upon the continent, as will render it dangerous for any power in Europe to join with France against us, and such a one as will encourage those who are inclined to join with us, in case we should have occasion for their assistance, which those very treaties will, in all human appearance, prevent, as they will leave us at liberty to apply our whole strength towards the prosecution of the war in America, and even for this purpose our treaty with Hesse Cassel may be of advantage to us, as their troops may be brought over to this kingdom, or sent to Ireland, for supplying an equal number of our own which, in case of a war, would be necessary for us to send to America, or to employ on board our fleet for annoying the coasts of our enemy.

My lords, I come lastly to the third head insisted on by the noble lord, which was his maxim, that this nation ought never to engage in any war upon the continent of Europe, no not even for that plausible pretence called the preservation of a balance of power at land; for this the noble lord must mean, if he means any thing; because, if he means, that we are never to engage unless when called on, it means nothing, as no war can happen in Europe in which we may not expect to be called on by one of the parties concerned, nor can a war happen, in which this nation may not find an interest in joining with one side rather than the other. But, however much some gentlemen may now be inclined to look upon the balance of power as a chimera, it is certain that it has long been, and, I think, always ought to be, very carefully attended to, and provided for, even by this nation. Therefore, our joining in a war upon the continent for preserving or restoring a balance of power, may sometimes be wise and necessary. Such a war may, indeed, be pursued too far, or continued too long. One ministry in queen Anne's time pursued such a war too far, another ended it too soon: both were blameable; but this can never establish it as a maxim, that we ought never to engage in such a war. One sole monarch of Europe might soon render himself master of this island, because he would be superior to us at sea. By a sole monarch, my lords, I do not mean his being in actual possession of every kingdom and state upon the continent of Europe, but his being in possession of so much power, and so great riches, as to give the law to all the rest, by menacing the nearest, and bribing, or in modern language subsidizing the most remote. And whether the monarch of France might not soon become such a monarch, if this nation should lay aside all regard for the balance of power, I hope, your lordships will seriously consider.

My lords, the present is not the first time that such a design has been formed: the House of Austria attempted it in the reign of Charles 5, and he would have accomplished it, had it not been for the wisdom and vigour of Francis 2. His dividing his power, and afterwards resigning his crown, put an end to any such design in the House of Austria; but his son, and successor in Spain, Philip 2, resumed the design, which our wise queen Elizabeth quickly perceived, and, notwithstanding her having so much to do at home, she soon took proper measures to defeat it. For this purpose she did not hesitate a moment upon engaging in a war on the con-

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tinent, by first assisting the Protestants in France, against the Spanish faction in that kingdom, and afterwards supporting the malecontents in the Netherlands, against the king of Spain, their then sovereign. Upon the decline of the power of Spain, the power of France rose apace, so that even cardinal Richlieu began to form the design of making the king of France sole monarch of Europe. Our Charles 1 did something against it, but he did nothing in a right way, and by his aiming so openly at absolute power at home, he rendered himself unable to oppose any foreign design, or to support himself upon the throne. His immediate successor Oliver Cromwell, was, indeed, an usurper, but he was a man of sense and great cunning; for by not seeming to aim at it, he got what Charles lost both his crown and his life for, by too openly aiming at it. He indeed, for his own glory and the good of his country, joined at first with France against Spain, but it is thought, that before his death he began to think of joining in a confederacy against France. Whereas Charles 2, instead of endeavouring to preserve the balance of power, became himself a pensioner to France, and was never right but once, I mean, when he entered into the triple alliance; but he soon became sorry for it, and I am sorry to say, that through his whole reign he seems to have been an enemy to his country, and a friend to its most dangerous enemies. His brother and successor again lost his crown, by refusing to join in a war upon the continent against Lewis 14, for indeed both the brothers seemed successively to desire only to be the delegate tyrant of these kingdoms, under the supreme tyrant at Versailles. After them, by good luck, or rather by a remarkable providence, we got a sovereign who had some regard to the liberties of Europe, as well as the liberties of this country: the prince of Orange, from the moment he got the better of the French party in Holland, never dropt the design of restoring and securing the balance of power, which had been very near overset, by the ambitious schemes of Lewis 14, and the slavish concurrence of our Charles and James 2. I say, my lords, the French party in Holland; for it is now evident, that those who in that country called themselves the republicans, and were thought to be so by the deluded populace, were all in the interest, and some of them perhaps in the pay of France. But the prince of Orange by his own address, and the contempt which the French court in all their measures shewed for the Dutch, got at last the better of the French pensioners in England as well as Holland; and the last of the many great actions of his life was, the concluding of the grand alliance, which, under the wise conduct of the duke of Marlborough, put an end to the ambitious views of France, and prevented their being renewed, until we fatally took it into our heads, that the overgrown power of the House of Austria was become dangerous to the liberties of Europe.

My lords, will any one say, that it was wrong in us to engage in the grand alliance? Will any one say, that because a French faction may prevail in Holland, it would be wrong in us, whilst it does so, to engage in a grand alliance with other potentates, even though the liberties of Europe should be brought into as great danger as they were at that time? Let us then resolve, my lords, to engage as often as such a necessity recurs, as often as there appears to be a 'Dignus vindice nodus:' that is to say, as often as the balance of power is like to be brought into imminent danger, either by an attack upon ourselves or upon any of our allies. I say upon ourselves, because by an attack upon our trade and plantations in America, the balance of power in Europe may now be irrecoverably overturned. The power of France by land is now become so much superior to that of any of their neighbours, that they may, by menaces, prescribe rules to the conduct of all their next neighbours, that is to say, to all those they can immediately attack by land; so that they now want nothing for rendering their monarch the sole monarch of Europe, but money enough to bribe some of those powers that are at a distance; and this they will get, if they can possess themselves of any considerable part of our trade and plantations; for this will not only increase their fund for bribing, but put it out of our power to bribe against them; whereas, if in any future war we can not only secure our own trade and plantations, but demolish those of the French, as the French will not then have it in their power, we shall not have occasion to bribe any of the remote powers of Europe; because if they are left to act impartially according to what is their real interest, they will without any subsidy be always ready to join us, in a confederacy for establishing their own independency as

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well as that of their neighbours; for which reason I am the more ready to agree to these subsidy treaties, because, I hope, they will be the last. We often before entered into subsidy treaties, for which there was no reason that was truly British; but for the two now under consideration, the reason is so truly British, that I think we could not otherwise have secured the independency of this kingdom, or the commerce and plantations belonging to it, upon which the superiority of our naval power must always depend.

Should the noble lord's motion be agreed to, and the news of it sent over to France, as it certainly would, the very next dispatch would tell them, that the nation was in a flame, and that the government would not be supported by the people. The Jacobites are always ready to say so, but they would then be believed by the French ministers, and in that case I should expect an immediate invasion; for however much the French may threaten, they will never actually invade this country, unless they believe that our government will not be supported by the people. In 1744, M. Saxe believed it, and he actually prepared to invade us; but by most people in France it was called 'la chimère de M. Saxe.' However, he embarked some troops, and with them 10,000 saddles for horses which he was to find here. I suppose that our Jacobites assured him, that our horses were Jacobites; for I am sure they represented many of our men as such, with less reason: none of our horses, I believe, ever said they were not Jacobites, no not even that learned horse which was the wonder of our learned persons of quality; but most of our men whom our Jacobites represented as such, had not only said but sworn that they were not Jacobites. But those British winds which so opportunely declared themselves against Jacobitism at the time of the Revolution, continue still, it seems, in the same sentiments, for they put an end to M. Saxe's chimera. Again, in 1745, when the young Pretender, the young adventurer, as they call him, was here, the French, I know, were invited to invade us; but the French and our Jacobites here disagreed about who should begin: the Jacobites insisted that the French should first invade: on the other hand, the French insisted that the Jacobites should first rise in arms, which the Jacobites in this part of the United Kingdom refused, in which they acted more wisely than their friends did in Scotland, as appeared from the sequel; which was a new proof that the French court will never seriously think of invading this country, whilst they believe that our government will be supported by the people; and I shall never be for giving them any ground to believe otherwise, for which reason I must be against the noble lord's motion.

The Earl of *Halifax*:

My lords; if the noble lord who spoke last had resolved to argue in the most distinct, regular, and clear manner, he might have brought all that could be said upon the subject now before us, into a much narrower compass; for in order to determine, whether the treaties now under consideration were entered into chiefly, and merely for the sake of Hanover, the best way certainly is, to consider what occasion we should have had for them, if it had not been for the sake of Hanover; and in this light, I believe, every one must clearly see, that we could have had no occasion for either of these treaties, nor for any treaty with any of the powers upon the continent of Europe; for considering the nature of our present disputes with France, if a war should be the consequence, it is evident, that an alliance with any one of the wild nations in North America, would be of more service to us, than an alliance with the powerful empire of Russia; and, I believe we might have purchased the alliance of every one of the wild nations in North America, for less money than we are, by this treaty, to pay to the Russians. Even the Abenakies themselves, the ancient enemies of our colony of New England, might, I believe, have been purchased for a very small sum of money, and there are many Indian nations upon the back of our colonies of Virginia, Maryland, Pennsylvania, and New York, whose friendship might have been secured at a very easy rate, because they are naturally our friends, and never will be our enemies, unless we make them so, by neglect, or ill treatment. I am, therefore, surprized to find that, whilst we have been running about Europe in search of allies who can be of no service to us, we have not as yet taken any proper measures for securing allies in America, which is the only place at land where allies can be of service to us, because it is the only place where the French can attack us, or we them, at land, and at sea it is not so much as pretended that we have occasion for any allies.

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It is therefore manifest, my lords, that if it were not for Hanover, we could have no occasion for any ally upon the continent of Europe, much less should we have occasion to purchase such allies at the expence of large annual subsidies; therefore the next thing I am to enquire into is, whether we are in honour, in gratitude, by alliance, or in common prudence, bound to engage in a war upon the continent of Europe, for the sake of protecting Hanover, or indeed any other state in Europe, against an invasion from the French; and first, with regard to what we may be in honour obliged to. As the electorate of Hanover must be looked on as a state in friendship with this nation, I shall grant, that if it were in our power, and consistent with our safety, we should be obliged to defend it; but in our present circumstances, I must insist upon it, that it is neither in our power, nor is it consistent with our safety, to defend Hanover from such an invasion, unless the other powers of Europe should generously and freely concur with us in the great undertaking, for if their concurrence must be purchased, it is not in our power to make the purchase, without neglecting entirely the prosecution of the war by sea and in America, and should our trade and plantations be exposed to the ravages of the French, a national bankruptcy would probably in a very few years ensue, which would render us unable to continue the war in Europe for the defence of Hanover, or to prosecute the war by sea and in America, or even to defend ourselves here at home.

Then, my lords, with regard to any obligation we may be under from gratitude, I shall grant, that if his majesty were to desire us to engage in a war upon the continent of Europe for the defence of Hanover, and to purchase all the alliances that might be necessary for that purpose, we should in gratitude to him, for his mild and just government, be obliged to run any risk, to expose ourselves to any distress, rather than not comply with his desire; but as the engaging in such a war is so contrary to the interest of this nation, and so absolutely inconsistent with its safety, I am sure his majesty will never of himself desire any such thing: I am sure he would choose to see Hanover exposed to a French invasion, rather than to see this nation involved in any such danger, or even in any difficulty. And as to the electorate of Hanover itself, it is certain, we owe it no gratitude; for we never had any assistance from it, in any of our wars; but what we paid the full price for; nor has it ever contributed, in any manner, to the increase of the trade, commerce, riches, or revenue of this nation.

My lords, I come next to consider, what obligation we may be under from alliance, and upon this subject I must observe, that we have, for many years, been strangely infatuated with a love for treaties of alliance, and treaties of guarantee. As we are entirely separated from the continent, I never could see any occasion we had for either. We can give what assistance we please, and when we please, to any power in Europe that shall stand in need of it, without any treaty of alliance, or guarantee, and no nation in Europe can give us any assistance, without exposing themselves to the necessity of having a greater assistance from us than they can give us. The Dutch, for example, whom we have been so long taught to look on as our most natural allies, could they give us assistance against any state in Europe, without thereby exposing themselves to the danger of being obliged to ask a greater assistance from us, than it is in their power to give us? It is certain they could not: and for this reason, I hope, that no demand will be made of the 6,000 troops they are by treaty obliged to furnish us with: at least, I hope that they will be wise enough to give a negative to the demand, if it should be made, by the advice of those, who seem to be doing all they can to involve us in a land war; for if no such demand should be made, or if the Dutch should give a negative to the demand, the French monarch could not have the least pretence for attacking the Dutch on account of a war with us; and if he should threaten them, as the noble lord was pleased to suggest, every independent nation in Europe would resent, and would join in assisting the Dutch to repel such an insolent menace, in which case we should have no occasion to bribe any power in Europe to join with us in the war against France, nor should we be obliged to take a greater share of the war at land than might be consistent with our present circumstances, and our vigorous prosecution of the war at sea.

Thus, my lords, it must appear, that no alliance we have with any power upon the continent, no not even that we have with the Dutch, can oblige us to engage in a land war, as long as we remain without assistance from any of our allies; and

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if this be the case with regard to those with whom we have treaties of alliance now subsisting, how much stronger must it be with regard to the electorate of Hanover, with which we have not now, so far as I know, any treaty of alliance subsisting. But if we had, no alliance could oblige us to ruin ourselves by assisting our ally; for all defensive treaties include, in their very nature, two conditions, one of which is, that the ally from whom the stipulated succours are demanded, is not itself involved in war; and the other condition is, that the ally who demands the stipulated succours, shall have provided such a force as, in all human probability, may, with those succours, be sufficient to repel the invading enemy; for no nation is obliged to send its troops to the defence of an ally, when all it can raise are become necessary for its own defence; nor is any nation, by virtue of an alliance, obliged to send its troops to inevitable destruction. These, therefore, are conditions inherent in the very nature of all defensive treaties; and both may be pleaded as a full discharge from any obligation we can by alliance be under, to engage in a war upon the continent, for the sake of protecting Hanover against an invasion.

Now, my lords, if we are not bound either in honour, or in gratitude, or by alliance, to engage in a war upon the continent for such a purpose, can we be bound to do so by any rule of common prudence? Upon this head, I will say, that it is contrary to every rule of common prudence for this nation to give the least ground for propagating an opinion, either in France, or any where else, that we will ever engage in a war upon the continent for the sake of protecting Hanover; because such an opinion will expose Hanover to be attacked upon every dispute with this nation, and will make every prince, whose assistance may be necessary for its defence, rise in his demands for what assistance he is able and willing to give; to which I must add, that it will make the emperor and empire refuse to fulfil the obligation they are under to protect the electorate of Hanover, unless they are hired at a very dear rate by this nation to do so. I say, my lords, the obligation they are under; for by their constitution they are obliged to protect every member of the empire who is unjustly attacked; and no quarrel or war with this nation, can ever be a just cause for attacking Hanover, as long as it preserves a neutrality in the war.

These, my lords, will be the fatal effects of our giving any ground for entertaining an opinion, that we will engage in a war upon the continent, for the protection of Hanover, as often as it shall be attacked upon what may be called our account; and the certain consequence of this will be, that every prince in Europe who can attack Hanover, especially the monarch of France, will endeavour at every turn, to extort concessions from this kingdom, by threatening to attack Hanover, because they all know, how expensive and inconvenient it has always been for this nation to support a war upon the continent, and that it will then be more expensive than it ever was heretofore. Whereas, if we once shew, that no attack upon Hanover can give us so much concern as to engage us in a war upon the continent, or divert us from prosecuting any war of our own in that manner which is most convenient for us, neither the French king, nor any other prince in Europe, will ever think of attacking Hanover upon our account; and if any of them should, we must trust to the empire, and the princes thereof, for taking care that the French shall never nestle in the north of Germany, as well as for taking care, that no neighbouring prince shall make a conquest of the electorate of Hanover, for their jealousy of the French will always prevent the former, and their mutual jealousy the latter.

My lords, after having thus shewn the effects and the consequences of the opinion that may be propagated in Europe, from our conduct upon this occasion, with regard to Hanover, I must observe, that upon this account, the treaties now under consideration give me infinite concern. They will certainly convince every court in Europe, that this nation will always be ready to engage in a war upon the continent for the sake of protecting Hanover, and that we will expose ourselves to any expence, to any danger, rather than allow the electorate to be over-run by an invading enemy: nay, that we will run the risk of absolute ruin; for this will be the consequence, if our public revenue should now be exhausted, and our public credit annihilated, by supporting a war upon the continent for the defence of the electorate; and this gives me the greater concern, as there was not at present the least occasion for laying a foundation for such an opinion, because both the king of Prussia and the court of Vienna had laid an interdiction upon any foreign troops entering Ger-

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many; and after such an interdiction we could not suppose, that the French would, in defiance of both these powers, attempt to invade the electorate of Hanover, or that they could ever have reached that electorate, which lies in the middle of Germany, had they been mad enough to make the attempt.

By this interdiction, my lords, the electorate was, without our interposition, and without our putting ourselves to any expence, so effectually guarantied against any invasion, that I am afraid it will be suspected, by some of the neighbouring powers to Hanover, especially the king of Prussia, that we were at the expence of these two treaties, not with a defensive, but an offensive view, for with such a view treaties are often entered into, which from the terms in which they are conceived seem to be only defensive; and this treaty with Russia points so directly against the king of Prussia, that I am surprized the noble lord could suppose its being designed against Sweden. If there had been any design against, or any jealousy of that kingdom, formerly deemed the most natural and convenient ally of this, the Russian troops stipulated by the treaty, would thereby have been appointed to have been held in readiness upon the frontiers of Russian Finland, instead of the frontiers of Livonia, next to Lithuania; and the 7th article is almost a plain declaration of their being designed against Prussia, which is the only country where it could be supposed that these troops would have a facility of subsisting immediately in an enemy's country, as by the 12th article, the territories of Poland are expressly declared not to be the country designed for this sort of subsistence.

My lords, as this treaty points so plainly and so directly at the king of Prussia, it cannot but excite his jealousy and his resentment; and the court of Vienna may likewise, perhaps, resent his majesty's stipulating to bring such a numerous army of foreign troops into the empire without the authority, I am afraid without asking the consent of the head of the empire; for whatever respect his majesty, as king of Great Britain, may owe to the emperor of Germany, yet as member of the Germanic body, he certainly owes very great respect to its head. Nay, even the king of France, as guarantee of the treaty of Westphalia, may, from this treaty, form a pretence for sending his numerous armies into the empire, in order to prevent its being over-run by Russians, and the imperial diadem being contemned by its own vassals. Thus, by the measures we have taken for preserving the peace of Germany, we shall expose it to be disturbed, and by endeavouring, at a great expence, to prevent our being engaged in a land war for the protection of Hanover, we shall render it almost unavoidable. Whereas, had we saved our money, and the pens of our negociators (I cannot say their heads, for I doubt if they had any) we might have prosecuted the war at sea and in America, without being diverted either by wars or treaties upon the continent of Europe.

But, my lords, having thus laid a foundation for disturbances in Germany, what we have already done can be of no manner of service unless we proceed further; 55,000 Russians, and 8,000 Hessians, will be far from being sufficient for the protection of Hanover, especially if the king of Prussia should, by our treaty with Russia, be provoked to join with France, and the emperor and empire to remain unconcerned spectators; for the king of Prussia may bring 150,000 men into the field, and the French can soon join him with at least an equal number; therefore, if possible, we must bribe several other princes into our alliance. Nay, the treaty itself with Russia points out another; for their troops must march through some part of Poland, consequently we must grant a subsidy to the king of Poland, elector of Saxony, if it were for nothing else but to obtain leave for those troops to march through the territories of that republic. The noble lord, therefore, vainly imagines, that these two are the last subsidy treaties we shall ever be obliged to engage in. We must now engage in several others; and if it should be laid down as a maxim, that we must take upon ourselves alone the protection of Hanover, as often as we are engaged in war with any potentate who can attack it, I may venture to prophesy, that we shall never be without subsidy treaties as long as we have a subsidy to give, which would certainly at last render most of our men Jacobites, whatever effect it might have upon our horses. This, I hope, the noble lord will endeavour to prevent, and, I think he cannot more effectually do so, than by joining with me in an approbation of the motion now made to us, as it would put an end to the maxim upon which these two, and many former subsidy treaties, were founded.

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Lord Chancellor *Hardwicke* : *

My lords; from the general tenor of the arguments made use of in favour of this motion, one must conclude, that this nation ought never to have any alliances, nor enter into any treaties of alliance or guarantee, with any one of the powers upon the continent of Europe; which would be a very new and a very strange sort of maxim, and a maxim inconsistent with the practice, as well as the senti-

* Notes of Lord Chancellor Hardwicke's Speech, Dec. 10, 1755. From the Original, in his Lordship's hand-writing.

Introductory Observations.

Foreigners, if present, must be surprized.

No false colours needful to support—only to wash off false colours, thrown upon it to sully it.

All the Objections reducible to two general heads—

Legal,—Political.

1. *Legal.*

Restrictive Clause in the Act of Settlement.

State it.

1. A previous objection.

No subsidiary Treaty at all to be made without the previous approbation of parliament.

This depends on the general rules of the constitution.

Mere imagination.

Fertility of genius.

2. Strictly on the Act of Settlement.

No such Subsidiary Treaty, in which the King's German dominions may be included, to be made without the previous approbation of parliament.

Construction of the Clause of Restriction.

Practice upon it ever since the late king's accession.

Treaties of guaranty.

General defensive alliances.

Treaty of Hanover, 1725.

Hessian Treaty of 1740.

Russian Treaty of 1741, almost in the same words with that of 1742.

Times of making these two last Treaties.

Times of laying them before parliament.

Acts done by the administration in execution of these Treaties.

Times of those acts.

Nobody then thought of suggesting it to be a breach of the Act of Settlement.

Reserved for the sagacity, the penetration of these times.

2. Objections *Political.*

These Treaties were considered in 3 lights.

1. A measure to kindle—to invite—a general war upon the continent.

2. A measure singly for the defence of the German dominions.

3. A preventive measure.

1. *The first light.*

No colour for it.

Made against no power—offensive to no power.

A great prince often and freely mentioned.

Sorry for it—groundless, imprudent.

He has made no representation against it.

It has been explained to him in its true light—in the most amicable, confidential manner.

Communicated to his minister.

A Treaty of Defence against whatsoever power shall be the aggressor against the king or any of his allies.

Qui capit ille facit.

Whoever shall attack, becomes subject to this diversion, if the king thinks fit to make the requisition.

France—Sweden.

The party who makes the requisition, and who is to pay the subsidy, has the right to fix the place of the diversion.

Some of the dominions of Sweden almost as much within the vicinity, as those of Prussia.

Sweden the most liable to the seductions of France—has ships of war—This a most convenient check.

The king of Prussia a great and most respectable power—a prince of great parts and penetration—Not governed by passions of affection, or resentment—but by his interest, judged of by his prudence—Apt to cast his eyes about to all quarters.

Would he like to give occasion to a French army to march into the empire on the one side, and a Russian army on the other?

2nd light—A measure singly for the defence of Hanover.

That is one object,—not the sole one.

1. Defence of his majesty's kingdoms.

2. ——— of his German dominions.

3. ——— of his allies.

It is even not for the defence of the German dominions at all, unless attacked on account of a British interest—a British cause.—To be restrained in the very terms of the Article,—the most cautious, limited Article that ever was penned.

3*rd Light. A preventive Measure.*

This was said to be the most delusive pretence of all.

'Twas necessary to give harsh epithets to this way of stating it, because it is the true light, and the most justifiable one of all.

A rule in controversy to do so.

A great minister, who is dead;—much lamented; saw it in this light—in prospect of an American war approaching—

Would you not, if possible, prevent a general war upon the continent?

Is that most likely to be done by being totally *unprovided*, only having a certain strength there?

Declared to *offend* nobody, to *defend* against any body.

This question answers itself.

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ments of our ancestors, through all former periods of our history. In my opinion, my lords, it would be absolutely inconsistent with the safety, as well as the interest of this kingdom; and I am the more inclined to be of this opinion, as I find it was the opinion of the great earl of Clarendon, in the reign of Charles the 2nd, who, in the Apology which he left behind him, when, by a most unjust and ungrateful prosecution, he was obliged to fly his country, has these remarkable words: "In my humble

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This Treaty takes its rise naturally out of the Treaty of 1742—is built upon it.

State how this stands.

In the Treaty 1742, the Casus Fœderis is defined in the 4th Article.

German dominions plainly included in it—

Kingdoms, provinces, states and possessions quelconques.

The same description as in the Treaty of Hanover.

Can any man doubt whether the German dominions were comprized in that?

The Treaty of 1742 differs from other defensive alliances in the 7th Article.

State this.

No Article for totis viribus—

This new Treaty takes its rise out of the 7th Article.

But when it came to a subsidy of 500,000*l.* per ann. for 55,000 men, the king would not use words even to entitle himself to make such a requisition for Hanover, unless attacked on account of a British interest.

This operates as a Restriction.

The most cautious, most gracious provision—No partiality for Hanover prevailed here.

But I will go farther. Suppose, for a moment, that there should break out a war on the continent.

This may happen whether you will or not.

No man of sense or integrity will maintain that you are, by your present circumstances, absolved from your defensive alliances.

How then will you perform them, when called upon? Can you send your national troops? No. These troops and the Hessians must be your resort. No man of sense or integrity will say that you can quite separate yourselves from the continent. A commercial kingdom must have connections there.

Objections.

Obj. 1. These troops to act by way of diversion only.

Ans. That diversion may be made in Sweden—in the Netherlands—against any power, who shall join in the war against you,—in the country of any prince, who may join with France in attacking Hanover.

Obj. 2. The 7th Article of this Treaty speaks of the proximity of the country, wherein the diversion may be made.

Ans. Only says *probably*—does not fix it to be there.

Obj. Russia will, if in any remote place, require subsistence for these troops.

Ans. Will have no right to it. What may be done by way of douceur is another question.

Obj. 3. 12th Article big with another subsidy, for passage through the territories of Poland.

Ans. Nothing like it. Is it probable that Poland will refuse the passage to a Russian army? Look on their situation—their circumstances—the influence of Russia there. Asked no subsidy, nor made any difficulty of it, in 1747.

Suppose for a moment, should be refused. They may be brought by sea—embarked at Riga in Livonia—landed at Lubeck—at Rial, the capital of the duke of Holstein. He is great prince of Russia—could he refuse a Russian army? At Stade, in the king's own dominions.

Have now gone through—

Will not attempt to speak to your passions—will appeal to your unbiassed judgments. What is there criminal—what is there impolitic in this Treaty? Where is the ground, I should have said the shadow of pretence, for the strong epithets, the uncommon language?

Will not retort that—

Saying of one of the most able writers,—Mr. Chillingworth,

"Passionate expressions and vehement assertions are no arguments, unless it be of the weakness of the cause, that is defended by them, or of the man that defends it."

As true a dilemma as ever was stated. Here it cannot be "of the men" that defend it—I know their abilities—only the other branch of the dilemma left—"the cause that is defended, &c."

But, for God's sake, from whence proceeds all that unprovoked, unprecedented invective? Have ministers in an instant changed their shapes? their natures?

One month panegyrized into angels—the next transformed into monsters.

This is not in the nature of things; not in the nature of measures—must proceed from some secret latent cause, which I will not pretend to explain.

The present Administration—

Are there not amongst them persons, whose breasts glow with as much love for their country—are as popular in it—have as great a stake in the hedge of it;—as free from the least suspicion of corruption,—from seeking to profit by the distresses of their country, as any that were ever known in this kingdom?

But I go further—How void of colour, of shadow is the impotent menace thrown out—the calling upon the judicial capacity of parliament?

The thunder of your lordships' justice is a tremendous thing—not wantonly to be played with.

Cannot people please themselves with courting power, unless it comes armed with vindictive judicial inflictions?

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opinion, the great misfortunes of the kingdom have proceeded from the war, to which it is notoriously known that I was always most averse, and may without vanity say, I did not only foresee, but declare the mischiefs we should run into, by entering into a war before any alliances made with the neighbouring princes." According to that great and honest minister, therefore, alliances are necessary for us before we enter into a war; and I will go further, I will say, that they are necessary even in time of peace; because, without treaties of alliance, and guarantee too, we could have no advantageous treaties of peace, nor could we be sure of being able to procure any allies, when it becomes necessary for us to enter into a war. 'Hospitibus feros' was the character given, many ages since, to the inhabitants of this island; but if this maxim should prevail, we might be called 'Peregrinis' as well as 'Hospitibus feros;' and we should be looked on by all foreigners as such a selfish British people, that no nation would have any trade or commerce with us. Nay, it is to be apprehended, that all the nations in Europe would combine against us, that we might be thereby taught to mix a little more humanity and sociality in our temper, and to convince us, that such a mixture was necessary for our safety, as well as interest.

I therefore hope, that the noble lords who have supported this motion, will depart from the doctrine they seem to inculcate, and allow that treaties of alliance are sometimes necessary for us; and if they do this, they must allow, that it is necessary for us to provide for supporting our allies when they are in danger of being attacked, especially when they are brought into that danger by their fidelity and attachment to us. Upon this principle, my lords, if the treaties now before us had been quite new in their kind, or such as had never before been thought of, they must be approved, because they are both necessary for supporting the House of Austria and the Dutch, as well as Hanover, in case any of them should be attacked by the French, in order to divert us from the prosecution of a war at sea and in America. But neither of these treaties can be said to be new in its kind; they are both founded upon, or rather a revival and explanation of former treaties. That with Russia, as is mentioned in the first and second articles, is only a renewal and explanation of our defensive treaty with that empire in 1742, which was only a renewal of the treaty which had the preceding year been made with the young Czar Ivan, who had, in the mean time, been set aside by the famous and sudden revolution which happened in the government of that empire. Then, with regard to the present treaty with Hesse-Cassel, it is only a renewal of that which was made in 1740, and which was approved of by both Houses of Parliament. Surely, such a treaty of alliance is as necessary for us, should we be engaged in a war with France, as it was when we were engaged in a war only with Spain; and therefore we have now as good or more reason to approve of the present treaty with Hesse, than the parliament had to approve of that in 1740.

I shall grant, my lords, that it would be very insolent and unjust in the French to threaten to attack the Dutch or the House of Austria, in case they refused to join with them in a war against us; but if they should, we are very far from being sure that the other powers of Europe would resent such an insolent menace, and much less that they would assist either to repel such an unjust attack. On the contrary, I am sure, that they would not, should we refuse to take any share in the war upon the continent, and even refuse to furnish to the party so unjustly attacked, the succours which we are, by treaty, obliged to furnish; but those succours we could not furnish without having subsidy treaties with some of the other powers upon the continent, because we have no troops of our own to spare; and I shall always be for taking foreign troops into our pay upon such occasions, rather than for encreasing the number of our own, because such an augmentation would take a great number of our hands away from useful labour or manufacture, and when peace is restored, and the new-raised troops disbanded, it leaves a new load upon the nation, by an additional number of officers upon half-pay, and an additional number of pensioners upon Chelsea college.

Puts me in mind of what I have read somewhere—I am not sure whether in my lord Bacon or not—'Tis in one of the moralizers upon the Heathen Mythology—He draws a moral out of the known Fable of Jupiter and Semele.

'Tis this—"Whoever courts power, armed with the thunder of vindictive inflictions, it is ten to one but he is the first to suffer by it himself."

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Thus it must appear, my lords, that if neither we nor our sovereign had any thing to do with the electorate of Hanover, it would nevertheless be necessary for us to have such treaties as these now under our consideration, in order to prevent its being in the power of the French to threaten and compel either the House of Austria, or the Dutch, to join with them in the war against us; and these treaties will have the same effect with regard to Spain; for it is not to be doubted but that the French will strongly solicit the court of Spain to join with them in the war against us, and perhaps even threaten them in case of a refusal; and however favourable the present ministers of Spain may be towards us, yet, considering the strength of the French party in Spain, and the temptations which the French might throw in the way of that nation, I question much, if the Spanish ministers would venture to despise such a menace, unless they were sure of being supported by the House of Austria, and this they could not be sure of, if we had not taken proper measures for preventing the House of Austria from being attacked by any of the French allies in the north, or even in the empire itself, which, I think, we have effectually done by the two treaties now before us.

Now, my lords, with regard to the electorate of Hanover, I wish it had not been so much talked of in this debate: I think we ought to avoid bringing it into any of our debates, because it is a topic which the disaffected will always make use of, for raising jealousies and distrusts in the populace against the illustrious family now upon our throne; and as the people in every part of his majesty's dominions are apt to have a jealousy of the people in every other part of his dominions, we may expect, that this topic will always be made use of by the factious and seditious for distressing the administration, and for gaining a credit and influence among the people without doors; for within, I hope we shall always be able to judge without prejudice or partiality, and to distinguish between disaffection or faction, and true patriotism. For this reason I should have chosen not to have said any thing about Hanover upon this occasion, but as it has been so often mentioned, I think myself bound to observe, that it would be as insolent and as unjust in the French to threaten or attack Hanover, on account of a war with this nation, as to threaten or attack either the Dutch or the House of Austria, and yet, if a war should ensue between the French and us, I do not in the least question, but that the French would endeavour to divert us from a prosecution of the war, by sea and in America, by an invasion of the electorate of Hanover. In such a case I shall most readily grant, that both the emperor and empire would be obliged to defend the electorate, but I am very sure that they would not, because they could not, unless we had previously put ourselves in a condition to give them a very powerful assistance, and this we are obliged to do at least, as much for the sake of Hanover, as for the sake of any other ally; for when the elector of Hanover succeeded to the throne of Great Britain, it of course established the closest, the firmest, and the most natural sort of alliance between the two dominions. We are therefore obliged to protect the electorate as an ally: nay further, I will say, that though by the Act of Settlement, his majesty cannot, by his prerogative, involve us in a war merely for the sake of Hanover, which, if it had not been provided against, he might have done, yet we are in honour obliged to protect the people of that country, as our fellow-subjects under the same sovereign; and, in gratitude to them, as well as to our sovereign, we are obliged to protect them, because they maintain 20 or 30,000 good troops, which have always without any subsidy, been, and always will be, at our command, when we have occasion for them, which must give us a greater weight at all the courts upon the continent, than we could expect, had we no such body of troops at our command. As to the gratitude we owe his majesty, I was glad to hear it acknowledged by the noble lord who spoke last; but I was surprised to hear him doubt of his majesty's desiring to have his people in Hanover protected. To doubt of it cannot surely be any compliment to his majesty; and it is certain, that they cannot be protected against France without our assistance. But no one can doubt of his majesty's desiring our assistance for this purpose: I say, no one who has read his most gracious Answer to our Address, at the beginning of this session, or who considers his strong desire to see his people happy in every part of his extensive dominions.

My lords, after having thus shewn, that we are obliged in honour, in gratitude, and by alliance, to protect the people of Hanover against any invasion from France, I think it will be easy to shew what we

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ought to do in common prudence; for it can never be consistent with common prudence, for a nation to neglect such indispensible duties. And after the two interdictions mentioned by the noble lord who spoke last, we have good reason to hope, that our fulfilling these duties will be attended with no great expence; for the French, I believe, will not think of invading Hanover, after both the court of Vienna and the king of Prussia, have declared, that they will not suffer any foreign troops to enter Germany. But I must observe, that neither of these declarations was made, until after both the treaties now before us, were concluded; and I may say, that these treaties were perhaps the occasion of both these declarations, consequently I may say, that by these two treaties we have prevented the possibility of a war upon the continent, and, on this account, I hope, it will be allowed, that these treaties deserve the applause, not the censure of this august assembly.

I shall agree with the noble lord in thinking, that these two treaties may propagate an opinion in Europe, that this nation will not allow the electorate of Hanover to be unjustly attacked; but I am so far from thinking, that this opinion will be attended with any inconvenience to this nation or to Hanover, that I believe it will secure the tranquillity of both; for as every nation in Europe must be convinced, that we will never support Hanover in an unjust attack upon any of its neighbours, we shall always be able to have a sufficient alliance upon the continent for the defence of Hanover, as well as any other ally; and if, for this purpose, it should ever become necessary for us to engage in a war upon the continent, I have the pleasure to think, that we should be able to support that war longer than any nation in Europe could support itself against us, as our commerce may, by proper management, be made more extensive in time of war, than it can be in time of peace, and as I do not think that our public credit would be in any danger, should we run as much in debt by a new war as we did by the last; and every one knows that, notwithstanding the bad conduct of some of our allies, and notwithstanding Spain being united with France against us, yet at last we made France glad to give up every thing it had conquered during the war; therefore, our resolution to defend Hanover against any unjust attack, will never make France think of extorting any unjust concessions from this nation, by threatening to invade Hanover, because a war upon the continent, in which this nation is heartily engaged, will always be of more dangerous consequence to France than it can be to us; and if France never thinks of any such attempt, I believe no one supposes that any other nation in Europe will.

My lords, as to the objection, that these treaties may have been made with an offensive view, the contrary is so plainly declared in that with Russia, that no such thing can be supposed; for it is expressly declared, "That the troops and gallies thereby stipulated, shall not be put in activity, but in case his Britannic majesty, or some of his allies, should be attacked;" and the reason why no such express provision was inserted in the treaty with Hesse, was, because it may be necessary to bring those troops over to this kingdom, even before any hostilities shall be committed, in order that we may spare to send a body of our own troops to America.

And lastly, my lords, as to the objection made, as if these treaties were inconsistent with our constitution, because, it is said, they ought not to have been made without the previous consent of parliament: this is, I confess, quite a new sort of doctrine to me; for I always thought, that, by our constitution, the king has the sole power of making treaties of every kind, provided there is nothing in them contrary to the standing laws of the kingdom. But of late years some great politicians amongst us have be envery apt to form Utopian schemes, and then declare them to be parts of our constitution, though they never existed any where but in their chimerical heads; and this I take to be the case with respect to the pretence now set up; for the king is not obliged by our constitution to ask either the consent or approbation of parliament to any treaty he makes, nor even to communicate it to parliament, unless it requires a grant, or an act of parliament; and even then he is obliged to communicate the treaty, only when he applies for the grant or the act thereby required.

My lords; as I have now answered every seeming objection that has been started against these treaties; and as I have shewn, that they must tend rather to prevent, than to be the cause of our being engaged in a war upon the continent, I must therefore of course give my negative to the noble lord's motion, and, I hope I

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shall have the concurrence of a great majority of this House.

The Earl of *Pomfret*:

My lords; whatever the noble and learned lord who spoke last may think, I must still be of opinion, notwithstanding all he has said, that this nation ought very seldom, if ever, to enter into any treaty of alliance or guarantee, with any one of the powers upon the continent of Europe. Nature has separated us from the continent: nature has made us "et penitus toto divisos orbe Britannos;" and as no man ought to endeavour to separate whom God Almighty has joined, so no man ought to endeavour to join what God Almighty has separated. This, therefore, is so far from being a strange maxim, that it is a maxim pointed out to us by nature herself; and it is so far from being a new maxim, that it is a maxim, which has been uniformly observed by all our sovereigns who had nothing else in view but the security and happiness of this kingdom. Nay, even as to such of them as had foreign dominions, and entered into alliances for the preservation or enlargement of those foreign dominions, we shall find from our history, that they never at last got much benefit from any foreign alliance.

To begin with Edward 1, for I think I need not go any further back, as he was one of the wisest princes, and one of the best Englishmen that ever swayed the British sceptre, the principal view of the whole of his glorious reign was to have united all the people of the British isles under one sovereign; and he would probably have succeeded had he lived seven years longer. Did he seek any foreign alliance for this purpose? No, my lords, although he was possessed of a very fine territory upon the continent, although another very extensive country upon the continent had been ungenerously invaded and taken from his grandfather, yet he neither sought to preserve the one, nor to recover the other, by sacrificing the true interest of this kingdom. It is true, indeed, after he had lost the former, I mean Guienne, by one of the most perfidious even of Gallic perfidies, he was provoked to endeavour to recover it by a foreign alliance. For this purpose, by means of subsidies, he engaged several princes of Germany and the Netherlands in an alliance with him, in order to attack France upon the side of Flanders. What was the consequence? After he had landed with his troops in Flanders, they took money from France, and deserted him: nay, he would have been murdered by the very people from whom he expected assistance, if he had not been saved by the generosity of one of the demagogues who had declared against him. This convinced him that he could not recover Guienne without neglecting the principal view of his reign, and thereby sacrificing the true interest of this kingdom, therefore he gave over thoughts of recovering it by force, and presently concluded a truce with the French king, whereby he left him in possession of Guienne; but, after some years, got it restored by treaty, in consequence of an award made by the pope, which entirely satisfied Edward, for he never thought of recovering the dominions taken from his grandfather, much less of entering into any foreign alliances for that or any other purpose. But his grandson, Edward 3, forgetting, or not recollecting what had happened to his grandfather, put himself to a great expence in forming alliances with the emperor and several other princes of Germany, when he projected his first war against France. What was the consequence? Without the assistance of any of his allies he obtained a glorious victory at sea, but with the assistance they gave him he could obtain no laurels by land. On the contrary, he was deserted by most of them when he had most occasion for their assistance; and was forced to agree to a truce. This experience made him alter his conduct; for he began, carried on, and gloriously ended the next war, by the famous treaty of Bretigny, without any foreign alliance or assistance.

In the next reign, my lords, there were no foreign alliances entered into, though we were almost continually engaged in foreign wars; and I must observe that though the French king had provided a fleet of above 1,200 transport ships, not flat-bottomed boats, and an army of above 60,000 men, all ready to embark at Sluice in Flanders, in order to invade this kingdom, yet we then disdained to think of any foreign alliance, or of bringing over any foreign troops for our protection, though the king then upon our throne had no reason to put any great confidence in the affections of his people; and had then sent all the troops he could most depend on with his uncle, the duke of Lancaster, to Spain. And as to the alliance which our Henry 5, made with the duke of Bur-

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gundy, it related only to that king's claim to the crown of France; but even as to that alliance I must observe, that it was deserted by the duke of Burgundy, as soon as he could make a safe and honourable peace with the king of France; nay, he not only deserted the alliance he had so solemnly entered into, but joined with the French against our Henry 6, in whose reign our bloody civil wars began between the Houses of York and Lancaster; and though that war lasted so long, and with such various success, yet neither side ever thought of supporting themselves by a foreign alliance, at least it may be justly said, that by such alliances they never did obtain any solid support.

My lords, the next foreign alliance I am to take notice of, was that made by our Edward 4, with the last duke of Burgundy, by which his majesty was induced, or rather seduced, to be at a great expence in raising an army, and to invade France; but when he arrived there, he soon found he had been deceived by the duke, who refused to perform any one article of the treaty; so that Edward was glad to accept of the peace offered him by the cunning Lewis 11, of France. The reign of Henry 7, again, may be called a reign of foreign negociations, treaties, and alliances; but most of them seem to have been designed for nothing else but to amuse the people here at home, and to squeeze money from his parliament; for none of them produced any other effect, except that of putting it into the power of the king of France to unite Bretagne to his crown, from whence this nation has so often been since threatened with an invasion. And every one that knows any thing of our history, must know how much Henry 8 was duped, first in the alliance he made with his father-in-law, Ferdinand of Spain, and next in the alliance he made with the pope, the emperor, and others, against France. In short, from the whole tenor of our history it will appear, that our foreign alliances have generally produced no effect, or effects that were inconsistent with the true interest of this country; and this must necessarily, from our situation, be always our case. It is against our interest to acquire any territory upon the continent of Europe, consequently it must be against our interest to attack any country in Europe by land upon our own account; and we may give assistance to our friends when they have occasion for it, without entering into any alliance, or stipulating any thing from them but money, or advantages in trade; for as to their assistance we can never have any occasion for it, whilst we preserve our superiority at sea.

My lords, the preservation of this superiority, ought always to be our chief attention, and this it is alone which makes it necessary for this nation to attend to the preservation of a balance of power upon the continent of Europe; because if any one state should conquer, or obtain the absolute direction of all the rest, that state would become superior to us in naval power, which is the only thing, humanly speaking, we have to fear. To prevent this therefore, it may sometimes become necessary for us to enter into foreign alliances: that is to say, when the balance of power is in real and immediate danger, and a sufficient confederacy cannot be formed for its preservation, without our joining with all our force in that confederacy; which was the case in 1701, when the grand alliance was formed by king William; and if that prince had been wise enough to provide by the articles of that alliance, for a case that might then have been easily foreseen, we should not now have had any occasion to fear the power of France, either in Europe or America. When I say this, my lords, every one must suppose, I mean the emperor Joseph's dying without heirs male, and his brother Charles's succeeding him in the imperial throne, as well as in all the Austrian dominions; for in this case it ought certainly to have been provided, by the terms of the grand alliance, or at least when we formed the project of conquering Spain for Charles, that some one of the other princes of Europe should succeed to the crown of Spain. I say, if this provision had been made, there would have been no necessity for putting an end to the grand alliance, by concluding a separate peace with France, until that kingdom had been so reduced, as to put an end to its again disturbing the tranquillity of Europe, or our repose in America, by any of its ambitious views; but by neglecting to make any such provision, a separate peace with France became absolutely necessary, as soon as the case happened, and in such a negociation, I believe most people will now admit, that it was right for this nation to take the lead, and to give over all thoughts of reducing the power of France so low as it might otherwise have been.

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My lords, having now shewn the only case when it may become necessary for this nation to enter into foreign alliances, I believe I may venture to say, that I have no such regard for the opinion of the earl of Clarendon, as the noble lord who spoke last was pleased to profess; and, in the particular case mentioned, I must think, that the lord Clarendon's opinion was ridiculous; for what allies could Charles the 2nd have occasion for in a war with the Dutch? Surely, this nation was then able, without any ally, to vindicate its honour as well as its rights, against the Dutch. I cannot therefore think, that the earl of Clarendon was so great a minister as he has been represented: on the contrary, the sale of Dunkirk, which now appears to have been solely his project, must convince every one, that he was either a very weak or a very dishonest minister; and if one of the articles of impeachment against him had any truth in it; I mean that of his having held correspondence with Cromwell and his accomplices, we may presume that he, by advising the sale of Dunkirk to the French, intended to ruin his master; for that measure alone was enough to have driven king Charles again out of the kingdom, if the former rebellion, and his own familiar and facetious disposition, had not riveted him in the affections of the people.

My lords, as I am of opinion, notwithstanding what was said by lord Clarendon, that king Charles had no occasion for any allies in his war against the Dutch, so I am of opinion, that we have now no occasion for any allies in a war against France, if such should be the event of our present disputes with that nation: it is not our interest to attack them any where but at sea and in America: it is not in their power to attack us any where but at sea and in America; and in both these places we have a confessed superiority, if we make a proper use of our naval power, and the numbers of troops we may raise in our plantations. They have, it is true, more numerous regular troops in Europe than we have; but by our superiority at sea we may prevent their sending any great number of their troops to America: we may even prevent its being possible for them to subsist any great army in America, should they find an opportunity by stealth to send a great number of troops thither. Therefore, in case of a war with France, we have no occasion for any ally, either for our defence at home, or for securing our success abroad; but, on the contrary, both may be rendered precarious by our having any allies, because the assistance they can give us will be by much overbalanced by the assistance we must give them, which would run us into such an expence, as must, in a very few years, put an end to our public credit.

My lords, when I reflect upon the consequences of a stop being put to our public credit, I must say I am surprized to hear any one make so light of that danger as the noble lord who spoke last seemed to do. The last war against France, in which we engaged with a number of allies, made us every year contract a new debt of near four millions sterling, one year with another; for the difference between the national debt as it stood on the 31st of Dec. 1741, and the 31st Dec., 1749, amounts to upwards of 27 millions, which for 7 years, the longest we can reckon the war to have continued, is near 4 millions a year; and I must observe, that the expence of the war yearly increased upon us, so that the new debt we contracted in 1747, amounted to near 6 millions, and the new debt we contracted in 1748, amounted to near 7 millions; and this over and besides the whole produce of the sinking fund, and all we could raise annually within the year. If we should now call for allies, and thereby begin a new war upon the continent, can we suppose that it will cost us less yearly than the last did? Must not we suppose that it will cost us more, as we now call upon our allies for their assistance, whereas in the last war our allies called upon us; therefore it may be reasonably supposed, that we must begin this new war at the same expence as we ended the last, that is to say, at the rate of running into a new debt of six or seven millions yearly, which in seven years would amount to near 50 millions. Where shall we find funds whereon to borrow such sums of money? Where shall we find creditors that have such sums to lend?

My lords, in my opinion, it would be impossible for us to find either funds or creditors, if the war upon the continent should so long continue; therefore the danger of a stop being put to our public credit is so far from being chimerical, that I think it is unavoidable; and if this should happen, how would it be possible for us to continue the war? But this would not be the only fatal consequence. Such a stop would bring all our paper credit into

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disrepute, and consequently a run upon our bank, and all our bankers: every one would be for realizing; and the little gold or silver money left among us, would be locked up in the coffers of the rich, so that it would be impossible for our people to find money either to carry on their trade or to pay their taxes; and what confusions and distresses this would produce, I tremble to think on.

I must therefore be of opinion, my lords, that if the emperor and princes of Germany will not, without our assistance, undertake to defend Hanover, as they are in duty bound to do, it is not only imprudent but impossible for us to undertake its defence. It must at last be over-run by the French, without its being in our power to recover it. Whereas, if we should allow it to be at first over-run, and confine ourselves entirely to a prosecution of the war at sea and in America, we may at last bring both the court and kingdom of France into such distress, as to make them glad, not only to restore Hanover, but to make good all the damage they have done to it. And as this is the only measure, which I think it is either prudent or possible for us to pursue, I cannot approve of either of the treaties now under our consideration, consequently I must be for concurring with the noble lord in the motion he has been pleased to make.

Protest against rejecting the said Motion.] The question being then put upon the motion, it was resolved in the negative by 84 against 11. Upon which the following Protest was entered:

" Dissentient.

1. " Because, though it was urged in the debate on this motion, that the subsidiary treaty with the empress of Russia had a pacific intention, I apprehend, its operation may prove fatally the reverse of so prudential a view; the clauses it contains, of free quarter and prædatory devastation, rather denouncing hostility, than speaking the equitable and conciliating language of peace.

2. " Because, in the late war, the troops of the landgrave of Hesse, levied at the expence of this nation, and duly paid their stipendiary hire, in violation of fœderal faith, engaged themselves in the service of the emperor Charles the 7th, then in arms against the cause maintained by the British standard.

3. " Because an event may happen, which may make the Protestant succession in these kingdoms not the object of the wishes, or considered as the interest, of a landgrave of Hesse.

4. " Because I am convinced, that a proper exertion of our strength on the American continent, and a steady pursuit of the vigorous and laudable conduct of our naval force, will enable us to dictate terms of peace to the court of Versailles; and as firmly believe that a war on the European continent must soon reduce us to implore them. TALBOT."

Then it was resolved,

" That it appears to this House, that the treaty entered into between his majesty and the empress of Russia, signed at St. Petersburg, September 19-30th, 1755, and also the treaty entered into between his majesty and the landgrave of Hesse Cassel, signed at Hanover, June 18th, 1755, are prudent and seasonable measures in the present conjuncture of affairs, and highly conducing to the support of the true interests of his majesty and his kingdoms."

*Debate in the Commons on the Treaties with Russia and Hesse Cassel.**] December 10. The order of the day being

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* HANBURY PAPERS. Mr. Digby to Sir Charles Hanbury Williams, Whitehall, Dec. 23, 1755.

" There was little new in the debate on the Treaties upon the 15th; but Mr. Murray made an extreme fine speech, with a great deal of argument, which Mr. Pitt answered with a great deal of wit. When we came to divide, the Noes went forth; but Mr. Pitt, Mr. Legge, and Mr. Townshend staid talking till the door was shut; so, after some dispute with the Speaker, they were obliged to stay and be told with us, which occasioned a second division upon the Hessian treaty. The numbers in the first division were 268 to 69; in the second we were 259 to 72; so you see your treaties are approved by a very large majority, notwithstanding they were so much abused without doors. We have had nothing in parliament since worth speaking of; and now we hear of nothing but the disposal of places."

The Hon. Horace Walpole to Richard Bentley, esq. Arlington-street, December 17, 1755.

" On the first debate on these famous treaties, last Wednesday, Hume Campbell, whom the duke of Newcastle had retained as the most abusive counsel he could find against Pitt (and hereafter perhaps against Fox), attacked

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read, for the House to resolve itself into a committee of the whole House, to consider further of the supply granted to his majesty; and a motion being made, and the question being proposed, "That the copy of the treaty, and of the two separate and secret articles belonging thereto, between his majesty and the empress of Russia, signed at St. Petersburg, September 19-30th, 1755, and translation, be referred to the said committee;" the House was moved, That the second provision contained in the third section of an act, made in the 12th and 13th of William the 3rd, intituled, 'An Act for the further limitation of the crown, and better securing the rights and liberties of the subject,' might be read. And the same was read accordingly.

The House was also moved, That the entries in the Journal of the House, of the 25th and 26th of March last, of the Address of this House to his majesty, upon his majesty's Message to the House, and of his majesty's most gracious Answer thereto, might be read. And the same were read accordingly.

The House was also moved, That so much of the Clause of approbation, contained in an act made in the last session of parliament, intituled, 'An Act for granting to his majesty a certain sum of money, therein mentioned, out of the sinking fund; and applying certain monies remaining in the Exchequer, for the service of the year 1755; and for carrying the surplus of certain duties to the sinking fund; and for the further appropriating the supplies granted in this session of parliament; as relates to the sum of one million, for the augmentation of his majesty's forces;' might be read. And the same was read accordingly.

Then the question being put, That the copy of the treaty, and of the two separate and secret articles belonging thereto, between his majesty and the empress of Russia, signed at St. Petersburgh, the 19-30th of September, 1755, and translation, be referred to the said committee; The House divided. Ayes 318, Noes 126. So it was resolved in the affirmative.

December 15. Mr. Charlton, according to order, reported from the committee of supply, the Resolutions, which were as follow:

Resolved, 1. That it is the opinion of this committee, that a sum not exceeding 100,000*l.* be granted to his majesty, to enable his majesty to make good his engagements with the empress of Russia, pursuant to treaty. 2. That a sum, not exceeding 54,140*l.* 12*s.* 6*d.* be granted to enable his majesty to make good his engagements with the landgrave of Hesse Cassel, pursuant to treaty. 3. That a sum, not exceeding 10,000*l.* be granted to enable his majesty to make good his engagements with the elector of Bavaria, pursuant to treaty.

The first Resolution of the committee being read a second time; and the question being put, that the House do agree with the committee in the said Resolution;

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the former for *eternal invectives*. Oh! since the last Philippic of Billingsgate memory, you never heard such an invective as Pitt returned,—Home Campbell was annihilated! Pitt, like an angry wasp, seems to have left his sting in the wound—and has since assumed a style of delicate ridicule and repartee. But think how charming a ridicule must that be that lasts and rises, flash after flash, for an hour and a half! some day or other perhaps you will see some of the glittering splinters that I gathered up. I have written under his print these lines, which are not only full as just as the original, but have not the tautology of *loftiness* and *majesty*:

"Three Orators in distant ages born,
Greece, Italy, and England did adorn:
The first in loftiness of thought surpass'd,
The next in language, but in both the last;
The pow'r of nature could no farther go;
To make a third, she join'd the former two."

Indeed we have wanted such an entertainment to enliven and make the fatigue supportable. We sat on Wednesday till ten at night; on Friday till past three in the morning; and on Monday till past nine and ten. We had profusion of orators, and many very great, which is surprising so soon after the leaden age of the late right honourable Henry Saturnus! The majorities are as great as in Saturnus's *golden* age.

"Our charges are begun; but not being made at once, our very charges change, lord Duplin and lord Darlington are made joint pay-masters: George Selwyn says, that no act ever shewed so much the duke of Newcastle's absolute power, as his being able to make lord Darlington *a pay-master*. That so often *repatrioted* and *reprostituted* prostitute Dodington is again to be treasurer of the navy. The duke of Leeds is to be cofferer, and lord Sandwich emerges so far as to be chief justice in eyre. The other parts by the comedians—I don't repeat their names, because perhaps the fellow that to day is designed to act Guildenstern, may to-morrow be destined to play *half* the part of the second grave-digger. However, they are all to kiss hands on Saturday." Lord Orford's Works, vol. 5, p. 343.

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the House divided: Ayes 263, Noes 69. So it was resolved in the affirmative.

The second Resolution being read a second time; and the question being put, that the House do agree with the committee in the said Resolution; the House divided: Ayes 259, Noes 72. So it was resolved in the affirmative.

In the course of the Debates on the Treaties,

Mr. *William Pitt* said, they were advised, framed, and executed, not with a view to the defence of Great Britain in case she should be invaded by France; not with a view to protect the allies of Great Britain if they should be attacked by France, but purely and entirely for the preservation of Hanover against the attempts of France and her confederates, which I believe to be so entirely the only object of the treaties, that I am convinced they would not have been made, had not that electorate belonged to the sovereign of this island. They must be considered as parts of a wild comprehensive system, to gather and combine the powers of the European continent into a defensive alliance, of magnitude sufficient to withstand the utmost efforts of France and her adherents against the electorate; and all this to be effected at the single expence and charge of Great Britain.—I conceive this whole system and scheme of politics to be absolutely impracticable. This unsizable project, impracticable and desperate as it is, with respect to all human probability of success, will, if fully pursued, bring bankruptcy upon Great Britain. The three last wars with France cost Britain above 120 millions of money, according to the best of my information; which sum amounts to the rate of more than forty millions each war. If I were provided with materials to be more exact, I should not think it worth while to consult them for the sake of accuracy, the immensity of the sum being such, by any calculation, that the mistake of a few millions can produce no sensible abatement in the argument; for whether 40 or 30 millions be the medium of our former expence in the three wars with France, the present system of politics, if carried roundly into execution, presents us with an effusion of treasure still more enormous; because, in the first place, the maintenance of our just and necessary war in North America, an object which had no place in the times of king William and queen Anne, and did not run very high in the late war, will prove a very inflammatory article in our account; and in the next place, the expence of paying and feeding those military multitudes which fought the former wars, was divided between the English, the Dutch, and other nations in alliance: all which expence is, by the system of these treaties, prepared for Britain alone. And when we consider that such immense issues of money, outmeasuring any experiment of past time, are to be supplied by new loans, heaped upon a debt of eighty millions, who will answer for the consequence, or insure us from the fate of the decayed states of antiquity? We are pressed into the service of an electorate. We have suffered ourselves to be deceived by names and sounds, the balance of power, the liberty of Europe, a common cause, and many more such expressions, without any other meaning than to exhaust our wealth, consume the profits of our trade, and load our posterity with intolerable burdens. None but a nation that had lost all signs of virility would submit to be so treated.*

1756.

Supplies granted.†] January 28, 1756. Mr. Secretary Fox presented to the House the following Message from his majesty:

"GEORGE *R.*

"His majesty being sensible of the zeal and vigour with which his faithful subjects,

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* Life of the Earl of Chatham, vol. 1, p. 201.

† The hon. Horace Walpole to the hon. Henry Seymour Conway.

"*January* 24, 1756.

"Yesterday our friend sir George Lyttleton opened the budget; well enough in general, but was strangely bewildered in the figures. Pitt attacked him pretty warmly on mortgaging the Sinking Fund: sir George kept up his spirit, and returned the attack on eloquence. It was entertaining enough, but ended in high compliments; and the division was 231 to 56."

"*March* 4, 1756.

"Your friend Legge has distinguished himself exceedingly on the supplies and taxes, and retains all the dignity of Chancellor of the Exchequer. I think I never heard so complete a scene of ignorance as yesterday on the new duties! Except Legge, you would not have thought there was a man in the House had learned troy-weight: Murray quibbled; at Hume Campbell the House groaned! Pitt and Fox were lamentable; poor sir George never knew prices from duties, nor drawbacks from

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of certain colonies in North America, have exerted themselves in defence of his majesty's just rights and possessions, recommends it to this House to take the same into their consideration, and to enable his majesty to give them such assistance, as may be a proper reward and encouragement."

This Message being referred to the Committee of Supply, they voted 115,000*l.* upon that account, and 5,000*l.* to sir William Johnson in America, whom his majesty had lately created a baronet for his good services. The report of the intention of France to invade Great Britain increasing every day, it was thought absolutely necessary to augment the army. It was with this view, that 92,000*l.* had been voted by the Committee of Supply for the ten new regiments of foot; and upon another estimate, presented by lord Barrington, 49,628*l.* was voted for defraying the charges of eleven troops of light dragoons for 1756, and 81,178*l.* for the charge of a regiment of foot to be raised in America for 1756. The total of the Supply granted this session, amounted to 7,229,117*l.* 4*s.* 6¾*d.*

*Debate in the Commons on taking off the Duties on Foreign Linen Yarns.**] February 3. The Committee of the whole House, to whom it was referred to consider of the State of the Linen Manufactures of Great Britain and Ireland, came to the following Resolutions:

1. "That it is the opinion of this committee, that it is proper, for the encouragement of the British and Irish linen manufactures, that a bounty be allowed upon the exportation of British and Irish coarse linens from this kingdom, of one halfpenny for every yard of such linens as shall be under the value of 5*d.* per yard, and of 1*d.* for every yard of such linens of the value of 5*d.* per yard, and under the value of 6*d.* per yard; and of 1½*d.* for every yard of such linens of the value of 6*d.* per yard, and not exceeding the value of 1*s.* 6*d.* per yard.—2. That the said bounty be paid out of any monies arising from any of the duties and revenues under the management of the commissioners of the customs in England and Scotland.—3. That it is proper, in order to enable the linen manufacturers of Great Britain and Ireland to work up their manufactures with more advantage, that the duties, now payable upon the importation of foreign raw or brown linen yarns, and spruce or Muscovy yarns, be taken off."

Upon the third Resolution, the following Debate took place:

Lord *Strange:*

Sir; by all the best writers upon trade and manufactures it has been laid down as an indisputable maxim, that the materials for manufacture ought to be allowed to be imported duty-free; and this maxim we have in so many instances wisely adopted, that I am surprized the resolution I am to conclude with, has not been long since taken in this country. It is not, it is true, a great many years since the first principles of trade begun to be understood in this kingdom; for until some time after the Revolution, even our native produce and manufactures, all except fish, paid a heavy duty upon exportation, and the most useful materials for manufacture paid a duty upon importation: even with regard to our fish, it was not until the 12th of Charles 2, that they were freed from any duty upon exportation: and since the Revolution it has been but by slow degrees, and at different and distant reprises, that we have come the length we are now arrived at. The first step we made towards freeing from all duties the exportation of our own commodities, or the importation of those foreign materials that are necessary for our manufactures, was in the session of the 3rd and 4th of William and Mary, when for the encouragement of the breeding and feeding of cattle, beef, pork or hogs-flesh, butter, cheese and candles, were by an act then passed, freed from all customs and impositions upon exportation; for as to the free exportation of corn, and the bounty thereupon, granted by an act of the 1st of William and Mary, I must look upon it only as a recompence granted to the landholders, for the heavy land tax which then began to be laid upon them, and was really

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premiums! The three taxes proposed were on plate, on bricks and tiles, on cards and dice. The earthquake has made us so good, that the ministry might have burned the latter in Smithfield if they had pleased. The bricks they were forced to give up, and consented graciously to accept 70,000*l.* on ale-houses, instead of 30,000*l.* on bricks. They had nearly been forced to extend the duty on plate beyond 10*l.* carrying the restriction by a majority of only two."

* From the London Magazine.

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rather a discouragement to our manufactures.

From the 3rd of William and Mary to the 11th of king William, we never thought of any new law for encouraging the exportation of our own commodities by freeing them from duties; but in the session of the 11th and 12th of that king an act was passed, whereby all our woollen manufactures, and all sorts of corn and grain, as also bread, biscuit and meal, were declared to be free from any duty upon exportation; and at last by an act of the 8th of his late majesty's reign, all goods and merchandizes of the product or manufacture of Great Britain, except such as were therein particularly and expressly excepted, were declared to be free from paying any subsidy or other duty whatsoever upon exportation. And as the goods therein excepted were all of them either materials for manufacture, or such as were proper or necessary for carrying on manufactures, so by the same wise act almost all foreign materials used for dying were made free from paying any duty upon importation, and the subsidy of poundage upon re-exportation reduced to 6*d.* for every 20*s.* value, according to the rates settled by that act.

By the same act, Sir, some other very beneficial regulations were made, but one of them, I think, ought to have been carried further: what I mean is the regulation relating to beaver skins, by which the duty upon the importation of that material for manufacture was indeed very much reduced, but as it is a material so absolutely necessary for our manufacture of hats of any tolerable fineness, I think the duty upon importation ought to have been entirely abolished, at least with regard to all beaver skins imported from our own plantations; or if any small duty had been continued, no drawback upon the exportation ought to have been allowed; for as the law now stands, all beaver skins, exported without any sort of manufacture, are to be allowed a drawback of one moiety of the duties paid upon importation; but if manufactured into hats, and then exported, no part of the duty is to be drawn back, which gives an advantage to the foreign manufacturer of hats that our own home manufacturer can no way entitle himself to. This is a sort of solecism in our mercantile politics which we have been guilty of, and could not indeed avoid, with respect to several other materials for manufacture as well as beaver skins; and though the duty upon them was very much reduced by the act I have mentioned, yet it had so enhanced, and does still continue to enhance the price of hats manufactured in this country, that the French and Dutch have gained a great part of the foreign trade from us, and would by this time have supplied even our home consumption, if the importation of hats had not been expressly prohibited: nay, some of our own plantations in America had carried the manufacture to such a height, that we were obliged to have recourse to a very dangerous regulation for putting a stop to it: when I say this, every gentleman must suppose I mean the act passed in the 5th of his present majesty, by which it was enacted, That no hats or felts, finished or unfinished, should be shipped in any of the British plantations, or loaded upon any horse or carriage, with intent to be exported out of any one of the said British plantations, under the penalty of 500*l.* for every offence, and 40*l.* upon every person assisting therein, besides forfeiture of the goods.

This, Sir, I call a dangerous regulation, and I call it so because of the fatal effects that may, by such regulations, be at last produced; for if the affection of our people in the plantations should ever be alienated from their mother country, it will be by such selfish and unnatural regulations as this. We may, it is true, by such restraints as this prevent our own plantations from becoming our rivals, and underselling us in foreign markets, but we cannot prevent foreign nations from doing so; and if our own plantations are able to underwork and undersell us in any sort of manufacture, some foreign nation will certainly be able to do the same, and with regard to that manufacture will as certainly drive us at last out of every foreign market, by which means we shall entirely lose that branch of trade, whereas it might have been preserved to us, had we allowed our plantations to carry it on: I say to us, Sir, because I must still look upon the people in our plantations, notwithstanding their great distance, as a part of ourselves. We should never, therefore, endeavour to prevent our own people in any part of the British dominions from carrying on any sort of manufacture: I say we should never endeavour to do so by restraints, but by enabling the people of this island to underwork and undersell the people in our plantations, as well as in every other part of the world; and I must add, that if

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this had been duly attended to in former times, it would never have been in the power of France to have established their woollen manufactures, so far as to have become our rivals at any foreign market in the world. On the contrary, it would hardly have been possible for them to have prevented our fine woollen manufactures from being clandestinely run into and consumed in their own country; whereas, if they go on with the same success for 50 or 60 years to come, as they have done for 50 or 60 years past, it will hardly be possible for us to prevent their fine woollen manufactures from being smuggled into and consumed in this kingdom.

I have troubled you, Sir, with these general remarks upon the nature of trade and manufactures, that every gentleman may from thence see, how dangerous it is to load any material for manufacture with a duty upon importation, especially those sorts of materials which in the manufacture are so mixed with others, or so much altered from their original form, that it is impossible to know or distinguish them, which renders it impossible to allow a drawback upon their exportation; and after having made this danger so manifest, I may now presume to say, that I am surprized how we have so long continued to load the importation of foreign linen yarn with such a heavy duty as must very much enhance the price of all sorts of our linen manufacture, and consequently must render it impossible for us to find a vent for it at any foreign market. This disadvantage we did, indeed, become sensible of a few years since, and therefore by an act of the 24th of his present majesty, a considerable abatement was made in the duties payable upon the importation of this necessary material: I say necessary, Sir, because from the accounts upon our table it appears, that large quantities of it have been imported, both before and since that abatement was made, which could not certainly have happened if our own spinners could have furnished our manufacturers with all the sorts, and as much of every sort of linen yarn as they had occasion for.

Since then it appears, Sir, that foreign linen yarn is a material so absolutely necessary for carrying on, much more for improving and extending our home manufacture of linen, why should it remain subject to a heavy duty upon importation? I say a heavy duty; for though 1*d.* per lb. weight, which is the duty still payable, be but a moderate duty upon fine linen yarn, it is a most heavy duty upon the coarse sort, being above 15*l.* per cent. from whence we may easily see the reason why it is impossible for our manufacturers to sell their linens so cheap as a foreign manufacturer may sell his linens of the same sort; for if the former pays 15*l.* per cent. for his material more than the latter, besides laying out of his money from the time he purchases his material, to the time he sells his manufacture, he must either deal at a much less profit, or he must sell his manufacture at least 15*l.* per cent. dearer, and consequently can never sell at any market where the other can appear as his rival. This is so evident, Sir, that we can never expect to sell any of our linens at a foreign market, whilst there is any duty payable upon the importation of foreign linen yarn, even though the bounties now proposed should be granted and regularly paid; and without granting such bounties, a total prohibition of the importation or wear of foreign linens, if it were possible to render it effectual, would only be laying a heavy tax, a tax of at least 15 or 20*l.* per cent. upon all consumers of linen, in proportion to their consumption, within the British dominions.

After having thus demonstrated, Sir, if figures can be allowed to demonstrate, that we can never think of sending any linen of our home manufacture to a foreign market, or even of supplying our home consumption, without doing by foreign linen yarn as we have already done by several other materials for manufacture, that is to say, declaring it free from all duties and impositions upon importation, I may venture to make a motion, which might otherwise appear to be unpopular, and which is, That in order to enable the linen manufacturers of Great Britain and Ireland to work up their manufactures with more advantage, the duties now payable upon the importation of foreign raw or brown linen yarns, and Spruce or Muscovia yarns, ought to be taken off.

Mr. *Vyner:*

Sir; I shall agree with the noble lord, that we ought to avoid, as much as possible, the laying of any duty upon the foreign materials for manufacture, provided he means raw materials, or materials in their original natural form, without any improvement by manufacture, if that improvement be such as may be made by our own people after it is imported; and this maxim, even in this confined sense,

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has one very general exception; for if the material be of such a sort as may be produced in any part of the British dominions, it may be proper to load the importation of it with a small duty, in order to encourage and promote the increase of our own produce. This, Sir, is what common sense must dictate to every gentleman who considers the nature of trade and manufactures, and it has been pretty uniformly observed, ever since the members of our legislature began to turn their thoughts to that subject. Our necessities, indeed, have of late been such, or pretended to be such, that we have been obliged to tax almost every thing that can be imported; but in general I may observe, that when a tax has been laid upon the importation of any raw material, a higher tax, or an additional tax, has been laid upon the importation of that material in part manufactured. Thus, thrown silk pays a much heavier duty upon importation than raw silk: cotton yarn pays a much heavier duty than cotton wool: and tanned hides or skins pay a much heavier duty than untanned hides or skins. And the rough or undressed flax has been long since freed from any duty upon importation, for the encouragement of our linen manufacture; yet we never before now thought of freeing it from any duty, when manufactured into yarn even of the coarsest sort; because no yarn of any kind was ever before considered as a material for manufacture, and certainly deserves much less to be considered as a material for manufacture than tanned leather or hides, as the manufacturing of flax into yarn, even of the coarsest sort, costs a great deal more, and employs a much greater number of hands, than the tanning of hides; and the weaving and bleaching of linen does not add so much to the value of the yarn, as may be added to the value of tanned hides, by working them up into several sorts of leather manufacture; nor is the number of hands employed in the former so large as the number of hands that must be employed in the latter.

From our general practice therefore, Sir, as well as from common sense, we may with regard to our imports lay down these rules, that foreign materials, which cannot be produced in our own country in sufficient quantities, ought not to be subjected to any tax, or a bounty ought to be given upon the exportation of the manufacture, equal to the tax upon the material; that foreign materials which can be produced in sufficient quantities within our own dominions, may be subjected to a tax upon importation, or a bounty ought to be given upon their home-production; that foreign materials, improved by any sort of manufacture, ought to be taxed in proportion to their improvement; and that all sorts of foreign goods, completely manufactured, may be taxed upon importation, and ought to be highly taxed, if not prohibited, when they are such as interfere with any of our home manufactures. These rules, I say, Sir, are dictated by common sense, and have been generally observed by our legislature, though I cannot say that they have been always so exactly observed as they ought to have been, because in our methods of taxation we have often thought of nothing but that of raising a sum of money for the public service, without any regard to the trade or manufactures of our country; and even when we have deigned to take the trade and manufactures of our country into our consideration, we have been too often directed by whim, or by the self-interested views of some particular set of men.

This, Sir, was plainly the case in the year 1730, when we made the importation of rough or undressed flax free from any sort of duty; for though it be a raw material absolutely necessary for many sorts of manufactures, it is a material of which a sufficient quantity might be produced in Great Britain, Ireland, and our American plantations, and it is a material, or produce, more profitable than any thing that can be produced by agriculture; for it has been computed, that an acre of land, by the production of wheat, cannot, one with another, produce above the value of 3*l.* 5*s.* yearly; whereas an acre of land, by the production of flax, may, one with another, produce to the value of 6*l.* yearly. For this reason we ought either to have left the importation of foreign rough flax subject to some small duty, or we ought to have granted some small bounty upon such as was produced at home, or imported from Ireland, or our plantations in America; but the interest of the linen manufacturers and sail-makers then prevailed over the interest of the landholders, and our regard for the public revenue prevailed, as it often does, over our regard for the true interest of our country. By the former prevalency we were induced to render the importation of foreign rough flax quite free from any duty, to the discouragement of our own production of that

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useful material; and by the latter, we were prevented from granting any bounty as a balance to that discouragement.

The case was again the same, Sir, in 1751, with respect to foreign linen yarn; for though the duty then payable upon the coarse sorts of foreign raw linen yarn was too high, the duty then payable upon the fine sorts of foreign raw linen yarn was far from being so: on the contrary, upon that of the finest sorts it was really too low; because every sort of linen yarn is an improvement of the rough material by manufacture, and an improvement which may be made by our own people; therefore by the third rule I have before stated, it not only may, but ought to be made subject to a tax upon importation; and as the importation is greater in proportion as the yarn is finer, therefore by the same rule the tax upon importation ought to be higher in proportion. But we took the direct contrary course; for we reduced very much the tax upon the fine sorts of foreign raw linen yarn, and but very little that upon the coarse sorts, by subjecting all sorts of foreign raw linen yarn to one and the same duty, that is to say, to 1*d.* per pound weight upon importation, so that the sorts of linen yarn, which are fit for making cloth of three, four, or five shillings a yard, now pay no higher duty upon importation, than the sorts that are fit only for making cloth of three, four, or five pence a yard. This surely was a solecism in our mercantile politics, if ever there was one, and a solecism we must have been led into either by inattention, or by whim, or perhaps by the superior interest of our manufacturers of fine linens, or linen and cotton manufactures. But neither the one nor the other had then interest enough, nor do I believe that they ever could have interest enough, to make us transgress all the rules of sound policy, by rendering the importation of all foreign raw linen yarn free from any duty whatsoever; therefore I must suspect, that the present motion proceeds from, and will underhand be supported by an interest far superior to that of any set of men in this kingdom, though I am persuaded that the noble lord who made it, and many of those who now seem to favour it, have been so far misled as to believe, that what they propose will tend to the advantage of the trade and manufactures of their country.

This, Sir, they may have been the more easily induced to believe, as it will most certainly tend to the immediate advantage of all our great manufacturers, and of all our weavers of linen, or of any manufacture mixed with linen yarn, and may for a year or two reduce the price of all home-made manufactures, or otherwise very much increase the profits of the manufacturers. But, alas! Sir, what will become of those multitudes of poor creatures in Great Britain and Ireland, who now support themselves by spinning fine or coarse linen yarn? They have not money to employ a solicitor or agent to draw up a petition for them to this House, much less to employ counsel to plead their cause before us; but whilst I have a seat here the poor shall always find in me an advocate to the utmost of my abilities, and, for their sakes, I wish that my abilities were much more extensive than I could ever pretend to. By the multitude of your taxes upon all the conveniences, and upon many of the necessaries of life, and by your boundless circulation of paper credit, which will certainly some day prove fatal to this country, you have made living, or even subsisting, in this country so expensive, that it is impossible for our poor to work or labour at so cheap a rate as they do in many or most countries of Europe, especially in Germany; and now instead of thinking how to enable them to subsist at a less expence, you are going to deprive multitudes of them of the only means they have of subsisting at all; for this will be the infallible consequence of what is now proposed. The poor spinners, who can subsist for 2*d.* a day, may certainly sell the yarn they spin at a less price than can be done by those who cannot possibly subsist under 3*d.* a day. In Germany, Poland, and Russia, their poorest sort of people may, and do subsist pretty comfortably, if they can earn 2*d.* a day: but in Great Britain, the poorest creatures we have cannot possibly subsist, and provide themselves with the coarsest sort of clothes, linen, and shoes, and fire and candle when necessary, if they do not earn at least 3*d.* a day.

What is the reason of this difference, Sir? It is not owing to the luxury or extravagance of our industrious poor, as has been most uncharitably, as well as falsely suggested: it is owing to the taxes to which we have most unwisely, as well as cruelly subjected the very poorest sort of our people: if they drink a pint of small beer, they must pay a tax upon the malt of which the liquor is made; and as they must have their small beer from one who

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brews to sell, they must pay no less than six different excises upon the liquor after it is brewed, and a seventh upon the hops made use of in brewing it. If they have a clean shirt or shift once in a week, they must pay two excises upon the soap and starch made use of in washing it: if they have a pair of new shoes once in a year, they must pay two excises upon the leather employed in making them: if they work by candle or lamp-light, as they must do in the winter time, they must pay two excises upon the candles they burn, and even upon the oil they burn in their lamps they must pay a duty, unless our whale-fishers can furnish us with as much as we have occasion for: and, lastly, for the salt they must make use of for seasoning any thing they can get to eat, they must pay two excises. To all which we must add, that they must contribute something towards the payment of all the taxes that are paid, by those that are employed in making or retailing any of these necessaries of life. And what adds greatly to the distress of our industrious poor is, that most of our nobility and gentry now live in London, and our other great cities during the winter, and spend a great part of the summer at Bath, Tunbridge, or other such places of amusement; so that our poor can get little or no addition to their subsistence from the hospitality or charity of their rich neighbours in the country.

When these things are considered, Sir, can we be surprised at its not being possible for our poor spinners to afford to sell their linen yarn so cheap, as the same sort of yarn may be sold in Germany, Poland and Russia? On the contrary, may we not be surprised that they have been able to spin any linen yarn at all for sale? And yet it is certain, that by means of the duty payable upon the importation of foreign linen yarn, our own spinners have hitherto been enabled to furnish yarn for a considerable part of our home consumption; for before the lowering of the duty in 1751, there was not any very considerable quantity of foreign raw linen yarn imported annually into this kingdom, so that the far greatest part of our home-made linens must have been with yarn of our own spinning; and some years since it was computed from the number of our people in Britain, Ireland, and the plantations, and the quantity of linen of all sorts that each person might be supposed to consume yearly: I say, it was computed from thence, that there was 87,500,000 yards of linen consumed yearly by the people in Great Britain, Ireland, and the plantations; and to answer this consumption, it appeared from the custom-house books, that there was at medium but 32,000,000 of yards of foreign linen of all sorts imported yearly, consequently there must have been 55,500,000 yards of linen then made yearly in Britain, Ireland, and the plantations, the far greatest part of which was certainly before 1751, made with yarn of our own spinning. Since that time indeed, the importation of foreign raw linen yarn has increased, and as it appears from the accounts upon our table that our exportation of linen has not increased, it is a demonstration, as clear as can be made by figures, that many of our spinners must already have been thrown out of that employment, by our lowering the duties upon the importation of foreign raw linen yarn in 1751.

This, I say, Sir, is a demonstration, and if this, in so short a time, demonstratively appears to have been the consequence of our lowering the duties upon the importation of foreign raw linen yarn, what must the consequence be of our abolishing those duties altogether? Must not the consequence necessarily be, that in a few years we shall have no spinners of linen yarn in the British dominions, either for home consumption or exportation; and if we have no spinners, it is certain that we can have no producers of flax. These two fatal consequences of what is now proposed are so certain, and at the same time so evident, that I am surprised, they do not strike every gentleman at first view. I shall admit, Sir, that whilst our linen manufacturers are obliged to pay more for their yarn than is paid by the foreign manufacturer for the same sort of yarn, it will be impossible for us to export any of our home-made linens to a foreign market; but shall we aim at acquiring the profit upon weaving and bleaching linens for a foreign market, by giving up the profits of producing and preparing the flax, and of spinning it into yarn, both for the foreign market and for our home consumption? Or shall we aim at acquiring the profits upon weaving and bleaching the 32,000,000 of yards now imported for home consumption, by giving up the profits upon producing and preparing all the flax, and spinning all the yarn, that are now produced, prepared and spun for the 55,500,000 yards now made at home.

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This, I think, no man in his right senses would chuse, even supposing that our hopes of acquiring were as certain, as the danger of losing would be inevitable, should this proposition be agreed to; because in producing and preparing the flax, and spinning the yarn, a much greater number of people are employed, than in weaving and bleaching the cloth, and because the national profit got by the former is two or three times as much as can be got by the latter.

But now, Sir, I must observe, that our hopes of acquiring what is aimed at are very precarious, and that our aiming at it in the way proposed may end in depriving us of a possibility to make any linen cloth, either for the foreign market, or for our consumption. By thus furnishing ourselves with foreign linen yarn, we shall in a few years have not so much as one spinner of linen yarn left, nor so much as one pound of flax produced in Britain, Ireland, or our plantations in America; and foreign princes will, by that time, see so much raw linen yarn carried out of the country, that they may probably be thereby induced to prohibit the exportation of it, or to load it with a heavy duty upon exportation. Russia has already begun; for no linen yarn can be carried out of that country without a licence from the government; and few, if any such licences would then ever be granted. Poland would soon think of the same regulation, which might be the more easily carried into execution, as they have but one port from whence their yarn could be carried to Great Britain. The princes of Germany would all, not excepting so much as one, follow the same example; and our linen weavers, being then all thrown quite idle, must come upon the parish, or remove to those countries where they could find employment. We should then be obliged to have all the linen we consume from foreign countries, which would considerably raise its price; for every one knows, that the late increase of our linen manufacture has greatly reduced the price of all foreign linens; and let gentlemen consider what a ruin it would bring upon this country, were we obliged to purchase fourscore millions of yards of foreign linen at a much higher price than we pay for it at present. I hope our linen manufacturers will seriously lay this to heart, and deliberately examine the consequences of what they now apply for; if they do, I am sure, they will give over pursuing a short-lived present advantage, that may so probably end in the ruin of themselves as well as of their country.

To conclude, Sir, if the proposition now made should be agreed to, I should be against granting any bounty upon the exportation of any sort of linen manufacture, because two thirds at least of that bounty will go towards the support of foreigners, who, upon the next turn of affairs in Europe, may be our declared enemies, and who never did, nor I believe ever will, shew us any friendship, without making us pay dearly for the friendship they shew; and, at the same time, by granting this support to foreigners, you will reduce to the utmost misery and distress, many thousands of your own people, who now support themselves, though poorly, by spinning some sort of linen yarn; therefore if you are resolved to abolish all the duties now payable upon the importation of foreign raw linen yarn, and at the same time to grant bounties for the encouragement of our linen manufacture, I hope you will grant those bounties upon the home-spun linen yarns, in proportion to their respective fineness, and to be paid upon certificates from the parson or minister, and the parish-officers of each respective parish where they were spun. Very small bounties of this kind would put our poor upon an equal footing with foreign spinners, and it would be an encouragement to every branch of the linen manufacture. It would likewise be an encouragement to the producing of flax in every part of the British dominions; and it would put it out of the power of any foreign state to disturb, much less to annihilate, our linen manufacture, which they may do whenever they please, as long as we must have the principal material of that manufacture from foreign countries. It was this consideration that has made us of late give so great encouragement to the importation of naval stores from America, and it was a wise consideration; but if that was a wise consideration, what shall we say of the proposition now made to us, which will in a few years put us so much in the power of foreigners, with regard to our linen manufacture, that we must have from them not only the rough material, but two thirds of the labour necessary for the manufacture? What others may say of such a proposition, I do not know; but all I shall say of it at present is, Sir, that I shall most heartily give it my negative.

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Lord *Hillsborough:*

Sir; if we were to allow nothing to be called a material for manufacture but what is in its original native form, even flax itself could not be called a material for manufacture; for it is never imported in its original native form, but must always undergo some sort of manufacture before it can be imported, or transported any where from the place of its growth. This must convince us that several things may be called materials, notwithstanding their having undergone some sort of manufacture, especially when by a further manufacture the value of them may be very much increased; and for this very reason yarn of all kinds has always been considered by the legislature as a material for manufacture. The exportation of woollen yarn has, we know, been prohibited ever since we first began to prohibit the exportation of our wool, which is a proof of its having been always deemed a material for manufacture; and notwithstanding the regard we have always had, and always ought to have, for the public revenue, yet in the 12th of his present majesty, we found it necessary for the encouragement of our woollen manufacture to abolish all the duties payable upon the importation of woollen or bay yarn from Ireland, which is another proof of our legislature having always looked upon woollen yarn only as a material for our woollen manufacture; and though great quantities of woollen yarn have been since imported from Ireland, yet we have never heard of any complaint, that multitudes of our British spinners have been thereby thrown out of employment, which is, I think, a demonstration that our great woollen manufacturers have been thereby enabled to set up a greater number of looms, and to sell for exportation much larger quantities of woollen manufactures yearly.

Now, Sir, if woollen yarn is to be considered only as a material for our woollen manufacture, I should be glad to know why linen yarn is not be considered as a material for our linen manufacture. I am sure, that by weaving, bleaching, and dressing, a much greater addition is made to the value of linen yarn, than is generally made by weaving, dying, and dressing, to the value of woollen yarn, because it requires much more time and labour to bleach linen, than to dye any sort of woollen cloth, and the materials necessary for the former cost as much as the materials necessary for the latter, if we except some few of the most expensive colours; therefore all sorts of raw linen yarn ought to be looked on as a material for manufacture, rather than any sort of woollen yarn, and consequently the importation thereof deserves more the indulgence of the legislature; which is confirmed by the practice of all our neighbouring countries, and even of those where the nature of trade and manufactures is best understood. In France the exportation of their linen yarn is expressly prohibited, and the importation of linen cloth of all kinds is in a manner prohibited by the heavy duties that are laid upon it; but as to linen yarn they not only allow but encourage the importation of it from all countries. In the Austrian Netherlands large quantities of linen yarn are yearly imported, which are manufactured into linen cloth for their own consumption as well as for exportation, and also into chequered and striped linens for the Spanish and Portugal trade, or into bed-ticks for exportation to Britain and Ireland. And in Holland they are so far from disallowing or discouraging the importation of linen yarn, that considerable quantities of linen cloth are yearly brought thither from Germany, and after being there bleached and dressed, are exported, and sold in foreign countries under the name of what we call Dutch Hollands; for the Dutch are so wise as to catch at every manufacture by which their people can make an advantage, and when they cannot ingross the whole of the manufacture of any particular sort of commodity, they content themselves with as much of it as they can lay hold of, which we had some years since a notable instance of in the case of our white woollen cloths, which were exported to Holland, and after being dyed there, were exported to other countries; and this practice became so frequent, that at last, in 1708, we were forced to lay a duty of 5*s.* upon every white woollen cloth, called broad cloth, that should afterwards be exported to foreign countries.

In short, Sir, I believe, there is no country in Europe besides this, where raw linen yarn is prohibited to be imported, or loaded with any duty upon importation; but in France it is expressly prohibited to be exported, and in Russia it is prohibited to be exported without a licence from the government; from whence we must conclude, that in all our neighbouring coun-

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tries it is looked on as a material for manufacture; and consequently, according to one of the rules laid down by the hon. gentleman himself, the free importation of it ought to be allowed, if we find that it cannot be produced in sufficient quantities by our own people. The only fact, therefore, we have to enquire into upon this occasion is, whether our own spinners have hitherto been able to produce such quantities of linen yarn as were sufficient for answering the demand of all our linen manufacturers; and the great quantities of foreign linen yarn that have been yearly imported, even under the present high duties, is an incontestible proof that this question must be answered in the negative. What was the reason why we formerly granted bounties upon the exportation of home-made linens? Was it not because we found, from the great quantities of foreign linens yearly imported, that our own linen manufacturers could not, or would not, sell their cloth so cheap as foreign linens, or could not make such quantities as were sufficient for our home consumption, and much less for answering the demand of our merchants who trade to Africa, America, Spain, and Portugal? Therefore to induce more of our people to engage in that manufacture, we granted those bounties. And is not this the reason why we are now to revive those bounties? But is it possible to suppose, that our linen manufacturers can make greater quantities of linen, without being supplied with greater quantities of linen yarn? Or that they can export any of their linens, if they pay a higher price for the yarn than can be made good to them by the bounties they are to receive upon exportation?

Let us see, Sir, how the case will stand if we grant the bounties proposed, without abolishing the duties now payable upon the importation of foreign linen yarn. From our Custom-house books it appears, that large quantities of foreign linen yarn were imported when no bounties were payable upon the exportation of home-made linens, consequently if you increase the quantity of home-made linens, which is certainly your design, if you have any design, in granting these bounties, a proportionable greater quantity of foreign linen yarn must be imported, and the increased quantity of home-made linens must be exported, in order to entitle it to the bounty. But if the advanced price paid for foreign yarn by the British manufacturer, above what is paid for an equal quantity of the same sort of yarn by the foreign manufacturer, exceeds the bounty which the former may entitle himself to by the exportation of the linen cloth he makes of that yarn, he cannot sell so cheap at a foreign market as the foreign manufacturers may do, consequently he can neither export, nor make any for exportation; and therefore cannot by these bounties be induced to increase his manufacture; so that by granting these bounties you will do nothing, unless you at the same time abolish the duties payable upon the importation of foreign linen yarn; and thus by endeavouring to ingross the spinning as well as the weaving and bleaching of linens for exportation, you will lose both the spinning, and the weaving and bleaching of all the linens you may hereafter export, and of a considerable, perhaps the greatest part of what you must hereafter consume.

Having thus shewn, Sir, that if the advanced price paid by the British manufacturer for his yarn, exceeds the bounty he is to receive upon the exportation of his home-made linens; the bounties now proposed to be granted can be of no signification, the next question we are to consider is, whether this advanced price will exceed the bounty; and this, I think, cannot be made a question, if the present duties upon foreign linen yarn are to be continued, at least with respect to all linens of *5d.* a yard, or under, which makes the principal branch of our linen exportation to our own colonies in America, or to Spain and Portugal for their colonies in that quarter of the world, as this is the only sort made use of for covering the negroes. Now supposing, that a yard of this sort of linen will require but half a pound of yarn, the duty upon that half pound of yarn is a halfpenny, to which we must add the expence of bringing the yarn into this kingdom, and this upon such coarse yarn we may reckon a farthing more. Thus the British manufacturer of coarse linens must pay three farthings for every half pound of yarn he makes use of, more than is paid by the foreign manufacturer for an equal quantity of the same sort of yarn: I say, for every half pound he makes use of; because if he could purchase homespun yarn cheaper than foreign, he would use none of the latter, and the pressing demand for the former will always keep it up at as high a price as the latter can here be sold for. Consequently, supposing he could

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have weaving and bleaching as cheap as it can be had abroad, yet every yard of his linen will cost him three farthings more than it costs the foreign manufacturer; and as he is to have but a halfpenny bounty upon exportation, it is evident, that the advanced price paid by the British manufacturer for his yarn, exceeds the bounty he is to receive upon exportation; which excess being at least a farthing upon every yard, will be upon all such linens at least 5 per cent. cost, more than foreign linens are loaded with; and this additional cost will render it impossible for him to sell his linens so cheap at any foreign market as foreign linens of the same sort may there be sold, which of course will prevent its being possible for our British manufacturers to export any of their home-made linens, if the present duty upon such foreign linen yarn be continued.

But, Sir, if you abolish this duty, and allow raw linen yarn to be imported duty free, the bounty proposed to be granted will have exactly the contrary effect: it will give to the British manufacturer an advantage of at least 5 per cent. at all foreign markets, upon his linens of 5*d.* a yard, or under, and a much greater advantage upon all his linens of above 5*d.* and not exceeding 18*d.* a yard; and consequently all our homemade linens not exceeding 18*d.* a yard, may be sold at all foreign markets at least five per cent. cheaper than such foreign linens can be sold at such markets. This will of course induce such numbers of rich people to engage in the linen manufacture, and such a rivalship will by their numbers be created among our linen manufacturers, that we may probably in a few years be able to supply not only all foreign markets, but also all our own consumption, with all sorts of linen, woven, bleached, and dressed in Britain or Ireland; and I must observe, that besides the weavers, there will always be great numbers of aged people and children employed in winding the yarn for the warp, and in winding quills for the loom, besides those employed in bleaching and dressing the linen after it is woven.

Therefore, Sir, if it were to be supposed, that the free importation of raw linen yarn should diminish the number of our own people employed in spinning, that diminution will be more than compensated by the additional number of persons that will be employed in weaving, bleaching, and dressing the increased quantity of our home-made linens. But, Sir, I am far from thinking that there is the least ground for any such supposition: on the contrary, I think, that we have good reason to expect an annual increase in the number of our spinners. What is it that makes the people of any country industrious? It is the furnishing them with a ready vent for the produce of their industry, and convincing them by examples how much their happiness may be increased by an increase of their industry; for otherwise the poor will never think of providing themselves with more than the absolute necessaries of life from day to day. How is this vent to be furnished? How are those examples to be made? Never by the poor themselves; but by some of the rich engaging in trade, manufactures, or improvements, by which they give employment to the poor, and then the most industrious of the poor soon become examples to the rest. How was the woollen manufacture established in this kingdom: before the reign of Edward 3, most of our wool was exported to Germany or the Netherlands, and brought back to us in cloth of all sorts: we had no weavers or spinners, but a few of the poorest sort, and that only for their own immediate consumption: and it would to this day have remained so, if no method had been taken, nor accident happened, to give a turn to the spirit of the people. But that wise and great king, in the 11th year of his reign got two laws passed in parliament, by the first of which it was enacted, that no cloths made beyond sea should be brought into the king's dominions, on pain to forfeit the same, and to be further punished at the king's will; and by the other it was enacted, that all foreign clothworkers who should come into the king's dominions, should have the king's protection, dwell where they pleased, and have convenient franchises granted them.

By these two laws, Sir, some of the rich foreign manufacturers were induced to come to settle and set up their manufacture in England; and the civil broils then raging both in Germany and the Netherlands, contributed greatly towards these laws having the desired effect. These rich foreign manufacturers certainly brought several of their most expert weavers and spinners along with them, and as to what woollen yarn they had occasion for, and could not produce or procure at home, they certainly had it from abroad, and probably continued for many years to have from abroad large quantities of woollen yarn spun

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abroad from our own wool; for though Edward 3 prohibited the exportation of wool by English, Welch, or Irish men, and enacted, that all wool to be sold should be brought to the staple, and there remain 15 days before any could be exported, in order that the home demand should be first supplied; yet the exportation of our wool was never absolutely prohibited till after the Restoration. Therefore we must suppose, that our woollen manufacturers were for a long time supplied with yarn chiefly from abroad; but at last by the increase of our woollen manufacturers, such multitudes of our own people became expert in spinning, that we had no occasion for any foreign woollen yarn; and the case will be the same with respect to the linen yarn, if we encourage numbers of rich people to set up linen manufactures in Britain and Ireland. The poor spinners of such yarn will then find a ready vent for all they can spin, which will spread a spirit of industry among the poor of all denominations, so that these spinners may probably soon become so numerous as to be able to supply the demand of all our linen manufacturers, let it become ever so extensive; and thus at last we may engross the manufacture of the yarn as well as that of the cloth; whereas we have at present but a very small share of either, and are in danger of losing the share we have, if we do not soon take proper methods to prevent it.

Of the two methods now proposed, Sir, one is, I find, thought so proper, that it seems to be unanimously agreed to, and yet I have, I think, clearly shewn, that it will signify nothing, unless the other be likewise agreed to. How, then, can any gentleman who approves of the one, hesitate a moment in approving of the other? The only objection that has any shadow of reason, is the pretence so emphatically enforced by the hon. gentleman who spoke last, that it is impossible for the British spinner to sell his yarn so cheap as the foreign spinner may sell the yarn he spins, because the expence of living is by our taxes rendered much higher in Britain than it is in most foreign countries, and that consequently if we admit a free importation of foreign linen yarn, we shall throw all our present spinners out of employment. Sir, if there were any foundation for this pretence, I shall allow, that it would be a most solid objection. But I take the fact to be quite otherwise: I am convinced that there are many parts of Britain and Ireland, where the poor may support themselves at as small an expence, as the poor can do in any part of Europe; because bread, which is the staff of life, is cheaper in this country than in any other, as is manifest from the large quantities of all sorts of corn we export yearly; and I am confirmed in this opinion, by the opinion of the linen boards both of Scotland and Ireland, as well as most of the manufacturers in England, who certainly know the circumstances of the poor in their respective countries better than we can, and who would not have approved of our discontinuing the duty upon linen yarns imported, as they have all done, if they had thought, that any of our present spinners would be thereby thrown out of employment. The present importation of foreign linen yarn cannot therefore be owing to its being impossible for the British spinner to sell his yarn so cheap as the foreigner may do, but to a real deficiency in the number of our spinners, which deficiency has been occasioned by the number of our linen manufacturers and weavers having of late years increased much faster than the number of spinners, so that the latter are not able to supply the demand of the former, and this increased demand for yarn gives those that do spin, an opportunity to insist upon a higher price for what they spin, than they might otherwise afford to sell it for.

The present measure therefore, Sir, may oblige our British spinners to sell their yarn a little cheaper than they do at present, and consequently oblige them to be more industrious, but it can throw none of them out of employment, as they will still have a great advantage over the foreign spinner, whose yarn must come here, loaded with the expence of freight, insurance, commission, &c. which upon all sorts of linen yarn is at an average computed to be about 10*l.* per cent. And this opinion I am rather inclined to be of, as the same objection was made in 1751, against our lowering the duties upon the importation of foreign yarn, which has since been found by experience to be without any foundation. Likewise, in 1730, it was objected against our abolishing the duty upon rough or undressed flax, that it would put an end to the growth and culture of flax in Britain and Ireland; and yet we find from experience, that the produce of flax both in Britain and Ireland has very considerably increased since that time; from whence it appears, that

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the freeing of any material for manufacture from a duty upon importation, does not always diminish, but on the contrary may sometimes increase our home produce of that material; and I must observe, that the lands in Britain and Ireland are higher rented than the lands in most other parts of the world, and the labouring people employed in the producing of flax are subject to all those taxes, which the spinners of yarn can be subject to; yet neither of these, we find, gave such an advantage to the foreign producer of flax, as to prevent the increase of our home produce of that useful material.

Upon the whole, Sir, when I consider what quantities of foreign linens are yearly imported into this kingdom, and at the same time consider how much less it would cost the nation to purchase the yarn, than thus to purchase the cloth completely manufactured, I cannot help being surprized, that a resolution to discontinue the duty now payable upon the importation of foreign linen yarn, should meet with any opposition in this House. I can easily guess from whence the opposition without doors arises, when I consider how many considerable merchants, factors, and shopkeepers, are concerned in the importation and exportation, wholesale and retail, of foreign linens: they foresee that the measure now proposed will considerably diminish, and perhaps at last put an end to the importation of foreign linens, and consequently that it will soon diminish the profits of their trade, and perhaps at last entirely annihilate the trade by which they now reap such an advantage. I cannot therefore wonder at their opposition; but no member of this House can have such a reason, or would be influenced by such a selfish motive; and therefore when the affair has been fully considered, I hope every gentleman that hears me will join with me in giving his vote for agreeing to this motion.

The Earl of *Egmont*:

Sir; in all questions of the nature with this now before us, most of the arguments that can be made use of on either side, must be founded on facts, most of which facts are generally such as cannot be certainly known, and consequently are always controverted; but of all such facts, those surely deserve the least to be depended on, which appear to be inconsistent with common sense and the known nature of things; and such are, in my opinion, all the facts that have been advanced in favour of the motion now under our consideration. The arguments, too, that have been made use of on the same side of the question, are, I think, sophistical or trifling. Of this last sort is the dispute, whether yarn be a manufacture, or a material for manufacture; for materials and manufactures are like causes and effects. Every cause is an effect until we come to the great original and primary cause of all things; and every effect is a cause until we come to the utmost bound, or the utmost perfection, which the Author of nature has prescribed to sublunary things. Within these bounds, therefore, every cause is an effect, and every effect is a cause. So it is with manufactures, and materials for manufactures. Every material may be called a manufacture until we come to the original native produce, and every manufacture may be called a material until we come to the highest perfection to which it can be brought by art. In the first sense, what we call undressed flax, which we have allowed to be imported duty free, may be called a manufacture, because it is not then in the original form in which it was produced, but has received some improvement by art; yet, I believe, no man will say, that undressed flax is not a material. In the last sense, a white woollen cloth is a material, and is considered as such by our loading the exportation of it with a duty, because it may receive some farther improvement by that art we call dying; yet no man ever said that white woollen cloth is not a manufacture.

From hence it must appear, Sir, that to dispute whether linen yarn be a material, or a manufacture, is mere trifling. It is certainly both; with respect to flax it is certainly a manufacture: with respect to cloth it is as certainly a material. But no man will say that it is an original native produce, or that it has not received a very great improvement by art or manufacture. If it be possible for us to get that improvement made by our own people, we ought to do it, at least we ought to do nothing to prevent it. To contend that the legislature looked on woollen yarn as a material, because they have allowed the free importation of it from Ireland, is not fair reasoning; for every one knows, that the passing of that act was occasioned, not because raw woollen yarn was thought to be only a material for manufacture, or because such an importation

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was necessary for the encouragement of our woollen manufactures, but because it had been found, by fatal experience, that we could not otherwise prevent the clandestine exportation of their wool and yarn to France; yet that very act shews how cautious the legislature has always been of allowing any thing that can be called a manufacture to be imported duty free, for it is provided, that the free importation granted by that act should not extend to woollen yarn twisted or thrown, which is but one step farther in the manufacture. And indeed when it was enacted by the act of the 10th and 11th of king William, that no wool, woollen yarn, or cloth of any sort, should be exported from Ireland to foreign parts, it was ridiculous not to give them a free entry into England, for by that prohibition on one side, and on the other leaving them subject to a high duty upon their importation into England, we established the woollen manufactures both of France and Prussia.

It is likewise unfair, Sir, to contend that the legislature looks upon woollen yarn as a material, because the exportation of it is prohibited: it may with the same reason be contended, that the legislature looks upon white woollen cloth as a material, because the exportation of it has been loaded with a duty. None of these examples, therefore, can be fairly brought as a proof of the legislature having ever looked upon yarn as a material for manufacture, but every one of them may justly be brought as a confirmation of that rule, which is dictated by common sense, and the known nature of trade, and which the legislature ought always to observe: the rule I mean is, that if it be found necessary, we should load with a small duty upon importation, every foreign material that has received any such improvement by manufacture as may be made by our own people; and that we should load with a small duty upon exportation, if it appear to be necessary, every manufacture that has not been brought to the highest perfection to which it may be brought by our own people. As to both these cases I say, Sir, if it should be found necessary; and this necessity may arise either from the novelty of the manufacture, and consequently the inexpertness or scarcity of labouring people in that way among ourselves, or it may arise from the dearness of the provisions necessary for the subsistence of labouring people, which renders it impossible for them to subsist at so small an expence, as such people may do in our rival country. When this necessity arises from the novelty of the manufacture, an absolute stop to, or prohibition of any importation may be necessary, which was the case in the reign of Edward 3, with regard to the woollen manufacture; but I am surprised to hear any mercantile measure of his brought as an argument for what is now proposed? It is true, he did not absolutely prohibit the exportation of our wool, or the importation of woollen yarn; and either would indeed have been ridiculous in the very infancy of the manufacture. But he took care that both should remain subject to a very high duty, which gave our home-spinners of woollen yarn a great advantage over the foreign, and this by degrees produced the desired effect: our home-spinners became so expert, and at last so numerous, as to be able to supply the demand of all our woollen manufacturers, and as neither were then, nor for ages afterwards, subject to any higher taxes than their neighbours, they soon began to underwork and undersell their neighbours, not only in our home market; but also in all foreign markets, engrossed almost the whole woollen manufacture of the world.

But, Sir, if the foreign spinners could ever have had a sufficient quantity of wool of their own, and could have brought or sent their woollen yarn duty free into this kingdom, and if at the same time our laborious people had been subject to higher taxes than any of their neighbours, we never could have had any home-spinners of woollen yarn; and our neighbours might have put an end to our manufacture of woollen cloth whenever they pleased, by prohibiting the exportation of their woollen yarn. That this will be the fate of our linen manufacture is, I think, absolutely certain, if in our present circumstances we allow the free importation of linen yarn; for that labouring people in any manufacture who pay no taxes, may live at a less expence than they who do; that labouring people in any manufacture who can live cheapest, will sell the produce of their labour cheapest; and that the masters in that manufacture will buy from those who sell cheapest; are maxims which, if there be an equality in all other circumstances, no man of common sense can doubt of; and that the number of those labouring people in any manufacture who must sell dear, will be diminished,

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so far as that manufacture can be supplied by those who sell cheap, is another maxim so certain, that I am convinced many of our poor British spinners of woollen yarn have already been thrown out of that employment, by the free importation of woollen yarn from Ireland; because the Irish spinners are free from many of those taxes with which the British are so unmercifully loaded. It is really ridiculous to suppose the contrary, as such large quantities of woollen yarn have come from Ireland since the free importation has been allowed, unless it be at the same time supposed, that the consumption or exportation of our woollen manufactures has greatly increased, which is a supposition we have not the least foundation for.

It is therefore, I think, Sir, most certain, that by the free importation of Irish woollen yarn many of our British spinners have been thrown out of that employment; but as a very high and laudable spirit for extending the linen manufacture then prevailed in Britain as well as Ireland, many of them probably betook themselves to the spinning of linen yarn, and some perhaps transported themselves to Ireland; notwithstanding all which, I am convinced, that many of them were reduced to great distress; but the distress of the poor, Sir, is never in this country taken notice of by the rich and opulent, until it becomes so general as to affect themselves; and even then the latter are but too apt to ascribe what they feel to the idleness and extravagance of the poor, rather than to any wrong measures of their own.

Thus we must see, Sir, that our having taken no notice of the British spinners of woollen yarn, who have been thrown out of that employment by the free importation of Irish yarn, can be no argument for our supposing, contrary to common sense and the reason of things, that none of the British spinners of linen yarn can be thrown out of employment by the free importation of that sort of foreign yarn. It is impossible to suppose, that spinners, who are subject to that long list of taxes mentioned by my hon. friend, can sell so cheap as those spinners may do who are not subject to any tax whatsoever, which is the case of the spinners in most foreign countries. It may be true, Sir, that as numbers of our rich people have lately engaged in carrying on linen manufactures, and for that purpose have brought over several foreign weavers: I say, it may be true, that the number of our spinners of linen yarn has not increased in proportion to the increase of the number of weavers, especially as this increase of weavers has happened but a few years since, and as the supplying of one loom requires at least four spinners in coarse cloth, and twice or thrice that number in fine cloth; but by comparing the quantity of linen cloth made at home with the quantity of linen yarn imported, we must see, that we have now a very great number of spinners of linen yarn; and as the number has of late years increased, we must suppose that it will yearly increase, if the present duties upon foreign linen yarn be continued; and that as the home-spinners of woollen yarn did, by the continuance of the duties upon foreign woollen yarn, increase so fast, as soon to supply the demand of all our woollen manufacturers, notwithstanding the devastation occasioned by the bloody wars between the Houses of York and Lancaster, so our spinners of linen yarn will by the same means increase so fast, as soon to supply the demand of all our linen manufacturers, should that demand be hereafter never so much increased.

In the mean time, Sir, the present deficiency, if there be any, will be supplied, as it has hitherto been, by the importation of foreign linen yarn; and a very few years will demonstrate, whether this deficiency proceeds from a deficiency in the number of our spinners, or from the high price at which they must sell their yarn, in order to subsist by their labour; for if from the former, the importation must yearly diminish, if from the latter, it will yearly increase as our manufacture increases, or perhaps without any increase in our manufacture, in which last case we must either again increase the duty upon foreign yarn, or abolish some of the taxes that lie heavy on our labouring people; because otherwise the certain consequence will be a total end to the spinning of any linen yarn in this kingdom, as it will then appear, that we have, by the late diminution of the duties, brought the price of linen yarn below what it is possible for the British spinners to sell the yarn they spin. This, I say, may, by a few years experience, appear to be the case of the late diminution of the duties upon foreign linen; and I am sure it would be the case should those duties be entirely abolished, and a free importation allowed, because

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the expence of the importation would be far from being equal to the superior load of taxes to which the British spinners are liable, even supposing it amounted to 10*l.* per cent. upon the value of all yarn imported; but that it cannot amount to near so much is evident; for this expence must be greater upon coarse yarn than upon fine, as a ton of the former is more bulky, and consequently must pay a greater freight in proportion to the value, than the former. Now as a pound of yarn fit for making cloth of 5*d.* a yard, can cost no more than 6*d.*; a ton of such yarn can cost no more than 56*l.* Can we suppose, that the expence of importing a ton of such yarn would amount to above 5*l.* when imported from Hamburgh, Stadt, or Bremen, which are the places from whence most of the foreign linen yarn would be imported? From which places the freight seldom amounts to 20*s.* a ton, and the insurance to seldom more than two per cent. Therefore the expence of importing even the coarsest sort of yarn could never amount to near 10 per cent. and the finer the yarn the less the expence would always be in proportion to the value.

But it has been said, Sir, that unless you discontinue the duties upon the importation of foreign yarn, the bounties you are to grant upon the exportation of linen cloth can signify nothing, because our home-made cloth will, notwithstanding the bounty, be undersold at every foreign market by the foreign, consequently we can neither export, nor make any for exportation; and for proving this the noble lord was pleased to give us a very curious calculation. But in answer to his calculation, I shall observe, that the fact appeared to be otherwise, during the time that the bounties were continued; for large quantities were then yearly exported, though the bounties were not then higher than those now proposed, and the duties upon foreign linen yarn higher than they are at present. This may at first view seem a little strange, though the fact is true, and may be easily accounted for, if we consider that a rich man can carry on any manufacture, or indeed any branch of trade, at a much less profit per cent. than a poor man is able to do. A manufacturer who keeps 100 looms at work, may sell his cloth a great deal cheaper than a manufacturer who keeps but 10 looms at work, and a merchant who trades to the value of 10,000*l.* yearly, may trade for a less profit per cent. than a merchant can afford to do who trades to the value of but 1,000*l.* yearly; because every man must support his family by the profits of his trade, and the rich trader may, if he pleases, live as frugally as the poor one can do. From hence, Sir, arises our advantage: both our linen manufacturers and merchants are men of larger stocks than the linen manufacturers or merchants are in most other countries; and this is the chief advantage we have gained by the late reduction of the interest payable on our public funds, that it will drive men of greater fortunes into trade. Consequently, though the expence of living be higher in this country than in any other, and though the British linen manufacturer pays more for his yarn, and for weaving and bleaching his linen, than the foreign manufacturer, yet by the superiority of his stock he may be enabled to sell his linen to the British merchant near as cheap as the foreign manufacturer can sell to the foreign merchant; and though the British linen merchant pays more for the linen he sends abroad than the foreign linen merchant does, yet by the superiority of his stock he may be enabled to sell his linen at every foreign market as cheap as the foreign merchant can sell the linen he sends thither. But the only stock of a labouring man is his labour, consequently the British labourer can have no greater stock than the foreign, if they be equally expert and diligent; therefore if the former cannot live at so small an expence as the latter, he must have higher profits upon his stock, that is to say, higher wages, or a higher price for the produce of his labour.

Thus we must see, Sir, that though the present duties upon foreign linen yarn be continued, the British linen manufacturers and merchants may, by the bounties, be enabled to contend with the foreign at every foreign market; but if you abolish those duties, and allow a free importation of foreign linen yarn, it will be impossible for the British labourer or spinner to contend with the foreign at our home-market for such yarn: the foreign yarn will certainly be there sold the cheapest, and our manufacturers will as certainly purchase only the cheapest, the consequence of which must be, that in a few years we shall have no spinners of linen yarn left in the kingdom; and then our neighbours may, whenever they please, put an end to our linen manufacture, by prohibiting the exportation of their yarn. But supposing our neighbours should continue to be so

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kind to us as to allow the free exportation of their linen yarn, to the great loss of their own people, and that we should thereby gain the weaving and bleaching of the thirty-two millions of yards of linen cloth now imported, yet we should certainly lose the spinning of the 55,500,000 yards now made at home, the far greatest part of which appears from the account of linen yarn imported to be now spun, as well as woven and bleached at home; and we should likewise lose the producing of all the flax now produced at home; for nothing can be more certain, than that no flax could be produced, if there were no spinning of linen yarn in the kingdom, because no producer could propose to send his flax abroad. It is evident therefore, that by what is now proposed, the nation would lose more than it could get, and that a much greater number of people would be thrown out of employment by our loss of the spinning, than could be added by the increase of our weaving and bleaching, besides the national loss by an absolute end being put to any future production of flax, which must be at present very considerable; for it appears from our public accounts, that we have not 7,000 tons of flax imported yearly, whereas 50,000,000 of yards of home-made and home-spun linen, allowing 5,500,000 yards of our home-made linen to be made of foreign yarn, will require above 10,000 tons of flax, so that our home produce of flax must now amount yearly to at least 3,000 tons, which at 35*l.* per ton amounts to 105,000*l.* yearly; for I shall not only join with the noble lord in supposing, that our production of flax has lately increased, but I shall go farther and suppose that, if we preserve our spinning, it will yearly increase, notwithstanding the free importation of it; because as our farmers are not only richer, but understand agriculture better, than the foreign, and as flax is the most valuable production that can be got from most of the lands even in this kingdom, our farmers may, and certainly will sell their flax as cheap as any foreign flax can here be sold, notwithstanding their paying a higher rent to their landlords, and higher wages to their servants, than foreign farmers usually do; for I must observe, and it ought to be attended to, that the competition in this case is not between the labouring people of England and foreign labourers, but between the farmers of England and the farmers of foreign countries.

In every light, therefore, Sir, in which this project can be viewed, it must appear to be attended with dangerous consequences, and may probably in ten or a dozen years occasion the total ruin of the linen manufacture both in Britain and Ireland; and yet I do not wonder at its having been approved of both by the linen manufacturers of England, and the linen boards of Scotland and Ireland. The former consider only their own immediate advantage, and therefore are for having their yarn at the cheapest hand; and as the linen manufacturers both of Ireland and Scotland are men of some figure and fortune, they had certainly a much greater influence at those boards than our poor spinners can be supposed to have had; but in this House I hope our poor labouring people of all kinds will always find many friends; and I am surprised to find this scheme patronized by any gentleman who has the honour to serve the crown, as it is the duty of the crown, and of those who serve it, to protect the poor against the oppression, or the intended oppression, of the rich and powerful.

Whether this scheme be opposed or no, Sir, by our importers of foreign linens, is what I know nothing of; but I am sure it is not their interest to oppose it; for even supposing it should prevent any future importation of foreign linens, yet as they would necessarily become the importers of all our foreign yarn, they would certainly get more by the importation of yarn for 87,500,000 yards of cloth, than they ever could or can get by the importation of thirty-two millions of yards of cloth; and if our own linen manufacture should be destroyed, as it would probably be in ten or a dozen years, by our neighbours prohibiting the exportation of their yarn, the trade and the profits of our importers of linen would then be vastly increased. Therefore, Sir, if any importer of foreign linen has appeared in opposition to this scheme, I must suppose his opposition to be artful, in order to promote the scheme, by furnishing its advocates with a popular argument in its favour, which consequently must with me be a prevailing argument for being against it.

The Resolution was then agreed to.

Protest against the Bill granting Commissions to foreign Protestants.] March 5. The order of the day being read, for the third reading of the Bill, intituled,

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"An Act to enable his majesty to grant commissions to a certain number of foreign Protestants, who have served abroad as officers or engineers, to act and rank as officers or engineers in America only, under certain restrictions and qualifications." The said Bill was accordingly read the third time. After debate; the question was put, whether this Bill shall pass? It was resolved in the affirmative.

"Dissentient.

1. "Because this Bill, to enable his majesty to grant military commissions to a certain number of foreigners, is framed in direct opposition to the principle and letter of that provision in the act of the 12th of king William the 3rd, for the further limitation of the crown, and better securing of the rights and liberties of the subject, which expressly provides, That no foreigner, even although he be naturalized or made a denizen, shall be capable to enjoy any office or place of trust, civil or military; which provision having been since renewed by the legislature, and the repeal thereof guarded against by the act of the first of king George the 1st, as far as a law in one age can prevent the repeal in another, has, to this day, been considered and reverenced as an essential and sacred part of our present constitution.

2. "Because none of the allegations in favour of this measure, upon the truth of which alone the expediency or necessity thereof must depend, have been in any degree proved: on the contrary, when facts asserted have been denied, and it has been proposed to go into the enquiry, upon evidence brought from those provinces where this necessity is supposed to take its rise, all witnesses have been refused, and necessary information precluded. And surely the plea of necessity alledged in support of this measure (a plea always to be received with suspicion, when urged to introduce a change in a free constitution,) is, in the present case, not a little extraordinary, as that necessity, if it does exist, can only arise from the present neglected, defenceless, and calamitous state of our American colonies, whose distress and danger have been brought upon them, as we really believe, by the conduct of an administration, who, after having, with an unexampled patience, acquiesced under an uninterrupted course of encroachments, from the treaty of Aix la Chapelle to the year 1754, when actual war broke out (a fort of his majesty being taken, and his troops attacked and beaten in the meadows), did at last send the small succour of two battalions only, consisting of no more than 500 men each, under general Braddock; since whose defeat in July last, no farther succour of troops has been sent to America.

3. "Because we have reason to believe that, if evidence had been admitted, it would have appeared that this Bill, as a scheme for raising an American force, is neither expedient nor necessary; that the granting commissions to foreign officers, strangers to America, and aliens to Great Britain, will retard, and possibly prevent the levies they are pretended to facilitate; and that the granting such commissions from his majesty, rank in America, and half pay in Great Britain, to these foreign officers, advantages repeatedly refused to the provincial troops of North America; as well as, by a most dangerous innovation, giving power to such foreign officers to sit in courts martial, and, though aliens themselves, to judge upon the lives and honour of his majesty's natural-born subjects, must create an universal disgust there, highly prejudicial to the rights of his majesty, and to the interests of this country.

4. "Because the provision in the Bill, which enacts, That the colonel shall be a natural-born subject, does not really contain that security which it affects to give, against the command of the regiment devolving upon a foreigner, as there may be fifty foreign officers employed in the regiment, whose commissions are not otherwise restrained to any rank; and, upon the absence of the colonel, who is a general officer, or, in case of his death, if the eldest of the four colonel commandants should be a foreigner, the command of the regiment must devolve upon an alien, against which the Bill does not provide, though the title of colonel of the regiment is indeed withheld from him; which consideration has the more weight with us, as it may happen that, at the time when the command shall so devolve upon the foreign officer, the four colonel commandants, all the field officers, and all the captains in the four battalions, may be foreign also; and, in that event, not only the present and future defence, but the civil liberties of North America, will be entrusted to a body of soldiers (perhaps aliens also), commanded by officers neither American nor British; and it is very remarkable, that this regiment, intended for the immediate relief of our colonies in

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their present imminent danger, cannot possibly be raised early enough to act this campaign, although it hath been preferred, ineffectual and disgustful as it is, to every other sort of military force; notwithstanding it is obvious too, that, out of great numbers of officers, natural-born British subjects, at this time in the service of our Protestant allies, and out of American officers who have served with reputation in all our late expeditions in those parts, a force might have been better raised and officered, without any change in our constitution, and with the entire satisfaction of America.

5. "Because the Bill, founded upon an expediency which is not alleged to be more than temporary, and which, from its nature, cannot be otherwise, is, in its frame and duration, perpetual; by which, not only the remedy, odious in itself, is extended without necessity beyond the pretended occasion for it; but a pretext is found for a perpetual repeal of one of the most essential parts still left subsisting of the original Act of Settlement, in a case, and in an age, when every sober and thinking man would feel a reluctance in suspending it, even upon the strongest proof of necessity, for the conjuncture only; more particularly as the same disposition and turn of policy which, upon the pretence of a temporary expediency, has fixed upon America this perpetual law, may in a future time, at some season advantageous to the design, upon a similar expediency, contrived and not suffered to be examined, contend for and carry a Bill of the same sort for Great Britain; and if this should happen, which God avert! the sword of both countries will be dangerously lodged in foreign hands, to the entire overthrow of the present constitution, and to the subversion of the liberties of Great Britain.

"For these reasons, we are of opinion, that, if we had given our assent to this Bill, which is a manifest departure from a sacred provision in the Act of Settlement, contemporary with the most solemn confirmation of our civil liberties, and enacted as the firmest barrier for the preservation of that great work, we should have been unmindful of our duty as peers of this realm, careless of our rights as British subjects, and wanting to the security of our posterity; persuaded, as we are, that, when the tendency, novelty, and danger, of this measure shall be thoroughly known and considered in America, the force proposed will probably never be raised; and convinced that, if it should be raised, it ought not to be trusted; that it may not only excite and spread a deep and universal disgust and apprehension in the minds of his majesty's most loyal and deserving American subjects, but even deprive us of the exertion of all the natural strength of America, where such eminent services have very lately been voluntarily performed by several of the northern colonies; thereby rendering the war in those parts, which, conducted with common prudence and timely precaution, might have had a speedy and honourable issue, extremely dilatory, impracticable, and ruinous, bringing upon our arms disappointment, and upon our counsels disgrace. TEMPLE. TALBOT."

The King's Message concerning the Augmentation of the Forces, and bringing over some Hessian Troops.] March 23. The Earl of Holdernesse presented to the Lords the following Message from his Majesty:

"GEORGE *R.*

"His majesty has received repeated advices, from different places and persons, that a design has been formed, by the French court, to make an hostile invasion upon Great Britain or Ireland; and the great preparations of land forces, ships, artillery, and warlike stores, now notoriously making in the ports of France opposite to the British coasts, together with the language held by the French ministers in some foreign courts, leave little room to doubt of the reality of such a design: his majesty has therefore judged it necessary to acquaint the House of Lords with intelligence of such high importance to the safety and well-being of these nations; and, at the same time, to inform them, that, in pursuance of the advice and assurances of his parliament, he has augmented his forces by sea and land, and taken proper measures and precautions for putting his kingdoms in a posture of defence against so unjust and desperate an enterprise, projected in revenge for those just and necessary measures which have been taken for maintaining the rights and possessions of his crown and subjects in North America: that, in order further to strengthen himself, his majesty has made a requisition of a body of Hessian troops, pursuant to the treaty lately made with the landgrave of Hesse Cassel, to be forthwith brought over hither, for which purpose transports are ordered.

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"His majesty, trusting in the Divine Protection, and in the good affections, zeal, and fidelity, of his people, which he has so often experienced, is determined to neglect no means of defence; but to exert all the force which God has put into his hands, to repel so daring an attempt: and his majesty doubts not of the support and concurrence of the House of Lords, in taking all such measures as may be conducive to an end so essential to the honour of his crown, the preservation of the Protestant religion, and the laws and liberties of these kingdoms. G. *R.*"

The Lords' Address thereon.] Upon which their lordships ordered, That an humble Address be presented his majesty, "To return him the thanks of this House for his most gracious Message; and for informing us of the advices which his majesty has received, of the designs and preparations of the French court against Great Britain or Ireland.

"To assure his majesty, that this House looks with the utmost indignation upon so unjust and daring an attempt as that of invading these kingdoms, in revenge for the generous and steady conduct his majesty has held, in maintaining the just rights and possessions of his crown and subjects in North America, against the unprovoked aggressions and hostilities originally commenced on the part of France: and humbly to entreat his majesty, not to suffer himself to be diverted from it by any appearances whatsoever.

"To acknowledge with gratitude the prudent measures and precautions which his majesty has taken, for putting his kingdoms in a posture of defence; and for having made the requisition of a body of Hessian troops, to be brought over hither, in consequence of the treaty lately concluded with the landgrave of Hesse Cassel.

"To beseech his majesty to pursue his gracious resolution, of exerting all the force which God has put into his hands, to disappoint and repel so desperate an undertaking; and particularly to augment his army in Ireland in such manner as he shall think necessary.

"To assure his majesty, that we will, with unshaken zeal, vigour, and unanimity, at the hazard of our lives and fortunes, stand by his majesty against all his enemies, and support him in all such measures as he shall find requisite in this critical conjuncture; this House not in the least doubting, that even the menace of so injurious and presumptuous an enterprize will create the highest detestation in all who call themselves Britons and Protestants, and raise a becoming spirit in all his majesty's subjects, for the defence of his sacred person and government, the Protestant succession in his royal family, and the religion, laws, and liberties, of these kingdoms."

The Commons' Address thereon.] Mr. Secretary Fox presented a similar Message to the Commons, upon which it was resolved, *nem. con.* "That an humble Address be presented to his majesty, to return the thanks of this House to his majesty for his most gracious Message to this House; to assure his majesty, that this House, truly sensible of the justice of the measures taken by his majesty in defence of the rights and possessions of his crown, will, to the utmost of their power, enable his majesty to resist the invasion with which this kingdom is now threatened; to express our thankfulness to his majesty for the increase of his forces by sea and land, and for the requisition made of the troops of the landgrave of Hesse Cassel, pursuant to treaty; and to desire his majesty to augment his forces in Ireland, if he thinks fit."

March 29. Mr. Fox, encouraged by the unanimity so conspicuous in the motion for the above Address, moved, "That an humble Address be presented to his majesty, to beseech his majesty, that, for the more effectual defence of this island, and for the better security of the religion and liberties of his subjects, against the threatened attack by a foreign enemy, he would be graciously pleased to order twelve battalions of his electoral troops, together with the usual detachment of artillery, to be forthwith brought into this kingdom."

There was a considerable party in the House, to whom such a motion was odious and detestable: but, considering the critical situation of affairs, they were afraid that a direct opposition might expose them to a more odious suspicion: they therefore moved for the order of the day, and insisted on the question being put upon that motion, but it was carried in the negative by 259 against 92. In the course of this debate, Mr. Pitt declared his disapprobation of the measure; the natural force of the nation, he said, was sufficient to repel any attack of the enemy. That state alone is a sovereign state, 'qui suis stat viribus, 'non alieno pendet arbitrio,' which sub-

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sists by its own strength, not by the courtesy of its neighbours.

The Resolution of the House was communicated to the Lords, who unanimously concurred; and their joint Address being presented, his majesty assured them he would immediately comply with their request. Accordingly, in the course of the next month both Hanoverians and Hessians arrived in England, and encamped in different parts of the kingdom.

The King's Message relating to the Treaty with Prussia.] May 11. A Treaty with Prussia having been concluded, the same was this day laid before both Houses, together with the following Message from his majesty.

"GEORGE *R.*

"His majesty, being desirous to be prepared against all attempts and designs whatsoever, that may be formed by his enemies in the present critical conjuncture; and considering that sudden emergencies may arise, which may be of the utmost importance, and be attended with the most pernicious consequences, if proper means should not be immediately applied to prevent or defeat them; his majesty hopes that he shall be enabled, by his faithful Commons, to concert and take all such measures as may be necessary to disappoint or defeat any enterprises or designs of his enemies, and as the exigency of affairs may require.

"His majesty having concluded a Treaty with the king of Prussia, has ordered the same, together with a Declaration, signed at the same time, to be laid before this House, that he may be enabled to make good the engagements he has thereby entered into. G. *R.*"

This Message, which was sent to both Houses, produced an Address of Thanks to his majesty: and the House of Commons unanimously referred both the Message and the Treaty to the Committee of Supply, who, upon the 13th of May, voted upon account 1,000,000*l.* of money, for such measures as may be necessary for defeating the enemy's designs, and as the exigency of affairs may require; and, on the 17th of the same month, they voted 20,000*l.* more, for making good his majesty's engagements with the king of Prussia. In the course of the debates on these votes,

Mr. *Pitt* opposed them. He contended, that a naval war we could and ought to support; but a continental war, upon this system, we could not. He admitted that regard ought to be had to Hanover, but it should be secondarily. If Hanover was made our first object, and we proceeded upon this system, it would lead us to bankruptcy. It was impossible to defend Hanover by subsidies. An open country could not be defended against a neighbour who could march 150,000 men into it, and support them by as many more. If Hanover should be attacked on account of her connection with Great Britain, we ought not to make peace until we had procured her full and ample satisfaction for every injury and damage she may have sustained. But the idea of defending Hanover by subsidies he ridiculed as preposterous, absurd, and impracticable. This system, he said, would in a few years cost us more money than the fee-simple of the electorate was worth; for it was a place of such inconsiderable note, that its name was not be found in the map. He ardently wished to break those fetters, which chained us, like Prometheus, to that barren rock.

The Militia Bill passes the Commons.] A Bill was brought in this session, which, though it did not pass into a law, yet deserves particular notice. It was entitled, "A Bill for the better ordering of the Militia Forces in the several counties of that part of Great Britain, called England." December 8. Mr. W. Pitt stood up, and after shewing the bad state of the Militia of this kingdom, and the necessity we were under of having some sort of militia regularly established, and properly armed and disciplined, he concluded with a motion to resolve, That the House would, on the 18th, resolve itself into a committee of the whole House, to consider of the laws in being, which relate to the militia of this kingdom; which motion was agreed to *nem. con.*; and it was resolved accordingly; but on that day the order was put off to January 21, when the House resolved itself into the said committee, and came to a Resolution, which was agreed to, and it was accordingly thereunto resolved by the House *nem. con.* that the laws then in being, for regulating the Militia, were ineffectual; whereupon it was ordered likewise *nem. con.* That leave be given to bring in a Bill for the better ordering the Militia forces, in the several counties of that part of Great Britain, called England.

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The Bill was not brought in until the 12th of March, when it was presented by Mr. Townshend, and read a first time. On the 19th it was read a second time; and on the 25th the House resolved itself into a committee upon the said Bill, which it likewise did on the 30th; and having gone through the Bill with several amendments, the Report was ordered to be received next morning. Accordingly Mr. Potter made the Report next morning, when the Bill was recommitted, and the House resolved itself into the said committee on April 5, as it likewise did on the 7th, 8th, and 9th, when they went through the Bill. On the 5th of May the Report was taken into consideration, when several amendments were made by the House; after which the Bill was ordered to be ingrossed, and on the 10th it was read a third time, when the Bill was passed, and Mr. Townshend ordered to carry it to the Lords.*

Debate in the Lords on the Militia Bill.] May 24. The order of the day being read, for the third reading of the Bill, intituled, "An Act for the better ordering of the Militia forces, in the several counties of that part of Great Britain called England:" the said Bill was accordingly read a third time. The question being put, Whether this Bill, with the Amendments, shall pass?

The Earl of *Stanhope* said:

My lords; that every country must have a military force of some kind or other for its defence against foreign enemies, and that the only proper military force of a free country is a well regulated and well disciplined militia, are maxims so certain, that I never reflected upon them, without being astonished at our having so neglected to put the militia of this country upon any tolerable footing; therefore it was with

* Hardwicke Papers. Mr. Horatio Walpole to Lord Chancellor Hardwicke.

"*Cockpit, April* 4, 1756.

"My lord; your lordship, having been pleased to allow me the liberty to trouble you with my notions on some occasions, will, I hope, excuse my doing it in a matter of importance, which is now depending in the House of Commons; I mean the Militia Bill. Whether it is formed upon the most perfect plan, or is very correctly drawn, I do not pretend to judge; yet, sure I am, it is become a very popular and plausible object, among those who are best affected to this government. I think the Tories in general, although some few are engaged in the conduct of it, do not approve it extremely; but the considerable persons who moved and earnestly supported the questions for bringing over the Hessians and Hanoverians, expressed themselves as looking upon our calling in foreign strength to be indeed a necessary but a temporary support only, in this perilous situation, until a more natural and national defence, against all dangerous emergencies to the public, could be formed and made serviceable. And they particularly mentioned the militia, as what might be useful at this present juncture, as well as in all future troublesome times, by acting under proper directions in concert with the standing regular forces. All those in our House who are firmly attached to the present measures, have testified their desire of having a militia established upon some plan like that of the present Bill; and the ministers then declared their sentiments very prudently in favour of it, or otherwise I believe they would have met with more difficulty in carrying the questions for a foreign assistance.

"But it is reported, my lord, that this Bill, when passed in our own House, is to be dropt in your lordship's. I heartily wish that, before such a resolution is taken among those who have the confidence and conduct of affairs, the consequences of it may be seriously weighed; for I apprehend it may occasion a great deal of ill humour and clamour, industriously fomented and propagated, not only by the pretended patriots in opposition, but even by the Tories, who do not approve the present plan, as if there was a design to keep the foreign troops here longer than the defence of their country may require it; and such disagreeable surmises of ill purposes intended, may be scattered among the people, against the administration, as may make a bad impression upon their minds. * * * * * *."

"*Cockpit, April* 26, 1756.

"My lord; I suppose your lordship, during your recess, may have fully considered the Militia Bill, and very likely have found many imperfections in it, that may render the execution of it difficult should it pass into a law.

"The power given to three or more commissaries of the land-tax, without a suitable qualification, to act jointly with two deputy lieutenants, who are to have 600*l.* per annum, in all meetings after the second general meeting relating to the fitness of persons to serve from time to time in the militia, will, I apprehend, so disgust the deputy lieutenants, as they may be constantly over-ruled by a majority of persons of mean rank and fortune, that they will refuse to meet and act with them.

"But let that or other material objections be ever so weighty, I am still of opinion, having talked with several persons of high and low degree, from different quarters, all well affected

* From the London Magazine.

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great pleasure I heard of some gentlemen's intending to form a scheme for this purpose, whose capacity and knowledge I could depend on, and this pleasure was very much increased by my first perusal of the Bill now under our consideration, because I thought it sufficient for answering the purpose. I have since perused it several times with great attention; and the more I consider it, the more I am convinced that it is as complete a Bill as can possibly be formed at the first out-set. When it comes to be carried into execution some explanations and amendments may perhaps appear to be necessary, which is generally the case with every law by which any new and important regulation is to be introduced; but I do not think that any thing very material has been omitted, and the advantage is, that no omission, if there are any, can be attended with any great expence or prejudice to the public, before we shall have an opportunity to provide for them by a new Bill, as the first operation of this Bill is not to take place before the 5th of October next, when the lists of all the men capable of serving in the militia, are to be ordered to be returned against a future day or days then to be appointed, so that in all probability those lists cannot be made out before the next session of parliament; and I must observe, that when they are made out, it will be very proper for us to have copies of them laid before us, because we shall then see what number of men we have in the whole, and in every part of the kingdom, that may be deemed fit for the militia, which is a knowledge we cannot have, unless this Bill be passed into a law, and it is a knowledge we must have before we can propose to put the finishing hand to the establishment of a militia; and that we must have a well regulated and well disciplined militia, or some other sort of military force for our defence is what, I am sure, no man will dispute.

But, my lords, it may perhaps be said, that we may provide for our defence by keeping up a sufficient standing army of regular troops, or by calling in a body of foreign troops as often as we have occasion; and therefore I shall beg leave to examine both these methods, beginning with that which is improperly called a standing army of regular troops, by which is meant a numerous body of men maintained in idleness at the public expence, and governed by laws different from those of the society to which they belong. This, I say, is improperly called a standing army of regular troops, if it be thereby meant to distinguish it from what we now call a militia; for a well regulated and well disciplined militia is as much a standing army as any sort of army can be, and may be

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to the administration, that if this Bill, after it has passed, as I believe it will, without opposition in our House, be flung out of your lordship's, it will have very disagreeable effects, to the prejudice of the ministry; for, in that case, however disliked it may be at present by many of different principles, it will be sounded as a most popular and desirable scheme in all places. 'In our circumstances and situation, some such 'thing is absolutely necessary and wanted,' will be the cry, not only of all those that are ill, but of many, very many who are well disposed. It may not be perfect, but it may be mended hereafter; there can be no harm in making a trial; and the supposed motives for not making the trial will be represented in the most odious colours against those that are thought to have the chief conduct of affairs, as having in view other means, not at all constitutional, for the defence of this country in great exigencies.

"It has got abroad, that lord Chesterfield's opinion against the Bill has much prevailed in a certain place. I have a great respect for the sentiments of that ingenious nobleman; but, if I am rightly informed of his objections, there seems not to be the least foundation in it for the dangerous consequences he apprehends. 'Tis said too, that the lord president (earl Granville) will oppose warmly the passing it: it does not become me to surmise what that lord's reasons may be, not having talked with him on that subject; but the peers, who are to have the chief hand in flinging it out, as it is reported, are lord Raymond and Marchmont. It will hardly be believed, my lord, that the first does not act by the influence of the court; and whether the last does or not, I will not presume to guess; but his chief reason, as I am told, for its not passing now is, that it may be necessary to see first whether a Militia Bill of the same nature may not be extended to Scotland, to make the defence of the whole kingdom at once uniform; but I have learnt from other great and sensible noblemen of North Britain, that, according to their constitution, it is an absurd and impracticable idea.

"In short, my lord, if the strength against the Bill is suffered to prevail in your House, let it come from what quarter it will, those that have the management of affairs, whether right or wrong, will, I am afraid, incur a censure not easy to remove. The clamour will indeed be great, and this is not a time to give an occasion for clamour, if, as I apprehend, we shall hear but too soon of the taking of Minorca by the French; the loss of that island will be attended with consequences that will affect this nation in the most sensible part."

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made as regular as any troops have occasion to be for real use. Therefore what is now called a standing army of regular troops ought to be called a standing army of mercenary troops; and the keeping up of such an army is so expensive, that it is impossible for this nation to furnish the expence of keeping up such a numerous army of this kind, as would be sufficient for defending us against our nearest and most inveterate enemy, especially considering the great expence we must be at yearly, in supporting our navy, and preserving our superiority at sea. This, my lords, is our case at present, and whenever this happens to be the case in any country, the only sure method they have left to provide for their defence, is by establishing a well regulated and well disciplined militia. It is by this method that the Swiss Cantons have preserved their freedom and independency against the numerous armies of Austria as well as France, and it was by this method that our neighbours in Scotland thought of defending themselves in case of their having again become a kingdom quite distinct from this, of which there was some appearance in the year 1704, and therefore in that year they passed the famous act, called "The Act of Security," for disciplining their militia, and providing them with arms; for they wisely foresaw, that if such a case should happen, it would be impossible for them to furnish the expence of keeping up such a numerous standing army of mercenary troops as would be sufficient for defending them against the armies of this kingdom; but thank God, the existence of the case was prevented by the union of the two kingdoms, which was soon after concluded, and which has happily left the inhabitants of this extensive island nothing else to think of, but *how* to defend themselves against the neighbouring powers upon the continent *of* Europe.

My lords; the impossibility of this nation being able to furnish the expence of keeping up such a numerous standing army of mercenary troops as may of itself be sufficient for our defence, will plainly appear, if we consider the numerous armies kept up by France, even in time of peace, and the expence of the small number of such troops now kept up by us. As the French keep up at least 150,000 men, even in time of peace, if they should ever by any accident gain a superiority at sea, and preserve that superiority but for three or four weeks, they might land 100,000 men of regular well disciplined troops in this island; and if we had no men in the kingdom that knew any thing of arms, or military discipline, but such as belonged to our standing army, which will be the case in a few years, if we go on neglecting our militia as we have done for many years past, we could not propose to defend ourselves against such an accident without keeping up a standing army of at least 100,000 men. Such a standing army, if kept up upon the same footing as our regular troops are to be for this year, would cost us at least three millions sterling per annum; for if a standing army of 34,000 men cost this year 930,000*l.* together with 152,000*l.* for the office of ordnance for land service, a standing army of 100,000 men must cost us at least three millions yearly, which is an expence that, I am sure, this nation could not support, even supposing we were quite free from any public debt; and even with such a standing army our fate would absolutely depend upon the issue of the first battle, for should we be defeated, we could find no recruits who knew any thing of military discipline, or had ever been bred to arms; from whence every one must see how imprudent it is to put our whole trust in our standing army of mercenary troops, and to take no care to have our people in general bred to military discipline, and the use of arms.

But now, my lords, supposing it were possible for us to furnish the expence of keeping up such a numerous army of mercenary troops as might be sufficient for our defence in all events, and supposing we could depend upon that army alone for our defence, yet I will say, it is a sort of defence which we never ought to choose, nor ever will choose, whilst there is a spark of the spirit of liberty remaining amongst us. A standing army of mercenary troops always, at last, begin to look upon themselves as the masters of that country where they are kept up; and after the body of the people have been rendered dastardly and effeminate, which is the never-failing consequence of a total disuse of arms, such an army will no longer submit to the civil power, than till they find a general who has art and conduct enough to unite them all under his influence. In republican or aristocratical forms of government, this indeed is very difficult, because it is easy to prevent any one general from acquiring such an influence; but in a limited

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monarchy, such as ours, it is very easy, because the army naturally unite under their sovereign; and if the king has not ambition enough to aim at arbitrary power, some general who happens to be his chief favourite probably may. From that moment the substance of our liberties would be annihilated, though the shadow might perhaps be continued for some time. Whilst our parliaments continued to do whatever was desired of them, they would be allowed to sit, in order that the king, or the favourite general in his name, might have a pretence to say, that the laws of the land had always been the measure of his government; but if the parliament should refuse to agree to such laws, or such supplies as the king or his favourite really intended to have, or should dare to remonstrate against any measures which the king or his favourite had pursued, or was resolved to pursue, the officers of our standing army of mercenary troops would be privately instructed to petition their sovereign for laying parliaments aside, as an useless and cumbersome burden upon the executive part of our government, and the dismissing of two or three officers for refusing, if any should refuse, to sign such a petition, would command a ready compliance in all the rest.

My lords, in answer to this, I know it has been often urged, that we can have no apprehensions from our army while it is commanded by gentlemen of the best families and fortunes in the kingdom; but this is a doctrine that has been contradicted by the experience of all ages and all countries: the standing armies of Rome, by whom the liberties of that famous republic were overturned, were commanded by men of the best families and fortunes in the commonwealth. In France the absolute power of the crown was established, and is now supported, by standing armies of mercenary troops, which were, and are still, commanded by the chief noblesse of that kingdom. In short, my lords, in all countries where the liberties of the people have been overturned by a standing army of mercenary troops, we shall find, that the officers of those armies were generally men of family and fortune, in the countries they respectively belonged to; for men even of family and fortune are but too apt to contribute to the establishing of arbitrary power, when they expect to have a considerable share in the dispensing of it. This is an observation founded upon the nature of mankind, and the behaviour of our army in the reign of James 2 is far from being any objection to it; for most of the officers of that army saw, that if they should contribute to the establishment of arbitrary power in their sovereign, they would be so far from having any share in the dispensing of it, that they would themselves become slaves to the most contemptible of mankind: I mean the priests, monks, and jesuits, who had got the absolute direction of that prince's conscience, with respect to his temporal as well as his spiritual affairs; and besides this it is now well known, that many of our nobility, and several of the officers both of our army and navy, had entered into such engagements with the prince of Orange, afterwards king William, whilst his princess was presumptive heir to our crown, as they could not well break through, after she ceased to be so, by the birth of a prince of Wales; especially as the chief reason for their entering into such engagements became much stronger after that unexpected event than it had ever been before. Therefore, my lords, we are not to expect that our army will always behave as they did at that time; for whatever opinion we may have of the gentlemen who are now the officers of our standing army, we can have no reason to hope, that the gentlemen of family and fortune in this country will always have a greater share of virtue and public spirit than has by experience been found in any other part of the world.

My lords, I hope I have now shewn, that it is neither possible, nor would it be prudent in us, to provide for our defence, by keeping up such a numerous standing army of mercenary troops as would be sufficient for that purpose in all events; and the only other method of providing for our defence, besides that of a well regulated and well disciplined militia, is that of calling in a body of foreign troops as often as we have occasion. This is the method we have now chosen, because it was thought by many, that we were in imminent danger, and that we had no other way for guarding against this danger; for which reason, though I was of a different opinion, I did not oppose it; but I hope we shall never again be under such unlucky circumstances as to furnish any one with a pretence for having recourse to this method; for of all others it is the most dangerous and the least to be depended on. We have, it is true, upon this occasion, found an opportunity to bring over

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some foreign troops; but upon the next occasion the princes and states of Europe may be so embroiled among themselves, that no one of them will spare us any of their troops, and the greater danger we are in, the more cautious they will always be of sending us any of their troops. Perhaps some of them were upon this occasion the more ready to send us their troops, because they thought with me, that we were not in any real danger of being invaded; and indeed the marine of France is at present in such a contemptible condition, that it is scarcely in the power of chance to give them a superiority at sea, for the space of twenty-four hours, in any part of the British channel, without some well-grounded hope of which, I am persuaded, they will never seriously think of invading this island; and if they should ever, by any accident, gain a superior power at sea, that power which enabled them to invade this island, would enable them to prevent any foreign troops coming to our assistance.

Thus, my lords, we must see, that the bringing over a body of foreign troops is a method of providing for our defence which can never be relied on, and if it could, the practice would be of the most dangerous consequence to our liberties; for if we trusted entirely to this method, or so much as to be under a necessity to bring over a number much superior to the number of national troops we kept in pay, they might very probably serve us as the Saxons served our ancestors the Britons; and if they should attempt it, I doubt much if the present inhabitants of this island could make such a brave and obstinate defence as the Britons did of old. But suppose we should always keep up such a number of national troops as to prevent our being in danger of being conquered by our foreign auxiliaries, yet these foreign auxiliaries would greatly add to the danger to which our liberties must always be exposed by a standing army, even of national mercenary troops; for foreign troops could neither understand, nor have any regard to the liberties of the people: they could think of nothing but a blind obedience to the prince upon the throne; and if we then happened to have an ambitious prince upon the throne, or a weak prince governed by a wicked minister, these foreign troops would be of signal use to him, in securing the obedience of our own national troops to his most unconstitutional commands; for when men can have no hopes of being able to resist with success, their obedience generally becomes active, and this too is, I believe, the only case in which passive obedience is ever practised.

A third disadvantage, my lords, in this method of providing for our defence, is the expence with which it must, upon every occasion, be attended. From this year's public accounts we may see, that the handful of foreign troops we have brought over upon the present occasion, will cost us above 300,000*l.*, even supposing that we may safely send them back at Christmas next; and this is an expence our neighbours of France may every summer expose us to, in time of peace as well as war; for it will be but marching a body of their troops towards the sea coasts in the spring, and we must thereupon send in a hurry for our foreign auxiliaries. And besides this expence we must, in order to have these auxiliaries at command, for ever pay annual subsidies, and so become, in some measure, tributary to several of the princes upon the continent of Europe.

I think, my lords, I may now with the strongest reason conclude, that a well regulated and well disciplined militia is the only military force that can be relied on, and the only sufficient military force which it is possible for us to provide, and to have ready at command upon all occasions. That we have no such military force at present no one can pretend, who remembers what passed in the years 1745 and 1746, much less can it be pretended by any one who thought it necessary to bring over the foreign troops we have now in the kingdom, and therefore, I hope, no one will oppose our passing the Bill now before us into a law.

The Earl of *Granville*:

My lords; with regard to most of what was said by the noble lord who spoke last, I shall very readily concur in opinion with him, and yet I can by no means agree to the passing of this Bill into a law, because I think it would be like throwing out a twig to a man in danger of drowning, by the grasping at which he is actually drowned, whereas by turning his eye another way, he might have caught hold of a rope, by which he might have been drawn to the shore. My lords, a well regulated and well disciplined militia is so necessary for the glory as well as safety of every nation, that I wish with all my heart we had it, but this Bill, I am

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sure, will not give it us. On the contrary, the meaning of the word seems to have been mistaken by those who were the projectors of this Bill, which mistake, I suppose, they were led into by what is called the militia in France, but what ought rather to be called a nursery for their standing army. What is properly called the militia of any country, comprehends every freeman in that country who is able to carry arms: this is what was formerly understood by the militia of this country; and this is what is meant in that act which was passed soon after the Restoration for regulating our militia; but the term freeman was very ridiculously in that act confined to persons having 50*l.* a year land estate, or 600*l.* in money or goods, besides stock on the ground; whereas, the term freeman ought to be extended to every man who is not in a state of slavery; and if all such men in this country could be bred to arms, and taught military discipline, I shall most readily grant, that it would be the best guard we could have for our liberties, and the best military force we could provide for our defence.

But, my lords, I doubt much if this can be done by any compulsory law, or by any other method but that of making it every man's immediate and apparent interest to breed himself to arms, and to make himself master of military discipline. To compel men to employ a considerable part of their time, and to be at a good deal of trouble, and even some expence, to learn an art which they think they may never once in their whole life have occacasion to make use of, and by which they can no way add to their character or estate, would be deemed such a hardship, that the enforcing such a law would be apt to raise insurrections in this country, as it has often done in others; and it may be remarked of old scholars as well as young, that they never make great proficiency in any art or science which they must be compelled to study. In old times, when the militia of England were really good soldiers, and when it consisted, as it always ought, of all the freemen in the kingdom who were able to carry arms, this general military spirit did not so much proceed from any express law, as from the fashion and humour of the times. Every one of our great barons was himself bred up from his infancy in the practice of all sorts of military exercises; and they did not value themselves, nor were they regarded by others, so much upon the yearly revenue they had coming in, for every one of them had more than they had occasion for, as upon the number of brave and expert soldiers they could upon any occasion bring into the field. For this reason they were themselves always ready to give the example of courage and military discipline to their inferiors, and all their palaces or castles were a sort of academies where the young men of the neighbourhood daily learnt and practised all sorts of military exercises. Their estates were not let out at rack rents, or high fines, as they are at present, but were all let at an easy rent, or small fine, and if any farm was better, or more improveable than another, he was sure to have it who had shewn himself the bravest and most expert soldier. By the same rule likewise, they dispensed all the favours which they had to bestow upon the gentlemen in their neighbourhood; and besides this, the regard and esteem which every man had among his companions, did not proceed from the estate or riches he was possessed of, but from the character he had acquired for military knowledge, and personal valour.

Thus, my lords, it became in those days every man's personal interest to breed himself to arms, and to make himself master of military discipline; and the case is still the same in Switzerland, where almost every common man, as well as gentleman, has served some part of his youth in some of those regiments they have in the pay of foreign powers; and from the character he has acquired in that regiment, he is, upon his return, to expect esteem or advancement in his own country. Nay, even in France, great care has been taken to propagate the opinion, that it is scandalous for any of their noblesse who is not of the robe, as they call it, never to have served in the army; and even among the vulgar, a particular regard is shewn to those who have served their six years in the army, especially if it be known that they have behaved well upon any siege or action.

My lords, it is by such means as these, that a military spirit is to be propagated and preserved among the people of any country, and not by bluntly enacting, that such a number of men in each parish or county, shall be soldiers, or shall be taught military discipline; for such a law will always have the same effect with that law which was passed soon after the Restora-

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tion for regulating our militia, it will be troublesome and expensive to the people, but the service itself will be contemptible; and the law, instead of providing for our defence, may very probably prove the cause of our ruin, by inducing us to put our trust in that which, if ever brought to a trial, will be found deceitful. Nay, the Bill now before us, if passed into a law, will rather extinguish than revive a military spirit among the people, for it will shew, that let a man's courage and expertness in military discipline be ever so great, or let him behave ever so well against the enemy, if he should ever happen to have occasion, he can never expect to be advanced, unless he be possessed of such an estate; he can never expect even to be a serjeant, because no man is by the Bill to be a serjeant who has not served in the regular troops. Thus, my lords, in order to make men venturous and brave, the two chief qualities of a good soldier, you are going to starve those very passions, I mean, ambition and avarice, which make men venturous and brave. Surely, the gentlemen who projected this Bill, must never once have reflected upon the nature of mankind, or upon the most proper methods for rendering that which they intended effectual.

What I have hitherto said, my lords, tends to shew, that the whole plan of this Bill is wrong; but supposing that the plan were right, is the Bill properly framed for carrying that plan into execution? His majesty may, it is true, appoint, as he does now, a lord lieutenant in each county, and those lord lieutenants may appoint deputy lieutenants in their respective counties, if they can find such persons, properly qualified, in the county, as will accept of the office; but who will; who can assure us, that twenty, or ten, or even five persons, qualified as the Bill directs, can be found in every county, who will accept of being deputy lieutenant? For there is nothing in the Bill for obliging men to accept of this troublesome office; and if five cannot be found that will accept, the law cannot, in most of our counties, be carried into execution, unless the lord lieutenant be always on the spot, because in his absence nothing can be done, unless five deputy lieutenants at least be present. And unless two persons, qualified as the Bill directs, can be found in each county, who will accept of the office of being deputy lieutenant, no one step can be made for carrying the law into execution in any county of England or Wales, where two such persons cannot be found; for the lord lieutenant cannot, without the assistance of two deputies at the least, so much as order the lists of all the men within each division to be made out by the constables, which is the very first step to be taken in the execution of this intended law.

Now, my lords, if we consider, that every deputy lieutenant is by the Bill, as it now stands, obliged to leave with the clerk of the peace an account of his qualification in writing, signed by him, that is to say, an account of the estate by which he claims to be qualified as the Bill directs, under a high penalty, in case of his neglecting to do so, or in case it should afterwards appear, that the estate is not worth what he gave it in for; and considering that the accepting of this office will subject every gentleman to a great deal of trouble and expence, without so much as a prospect of any advantage, I believe, most of your lordships will concur with me in opinion, that in many counties of this kingdom it will not be possible to find two gentlemen qualified as the Bill directs, that will accept of the office of lord lieutenant; and consequently the noble lord will be disappointed in what he expects from this Bill, if passed into a law, to wit, an account of all the men able to carry arms in the whole, as well as every part of this kingdom.

Thus, I think, my lords, it must appear evident, so far as relates to the deputy lieutenants, that this Bill, if passed into a law as it now stands, will be found absolutely inexecutable; and this objection holds equally strong with regard to colonels, lieutenant colonels, and all other commissioned officers; for no man is, by the Bill as it now stands, to be obliged to accept of any commission in this militia, and I am persuaded, that very few gentlemen, qualified as the Bill directs, will willingly accept of any such commission; for we now find, that few gentlemen of any character choose to accept of commissions in the militia we have now established, and I can see no reason for supposing, that commissions in the new militia will be deemed more honourable than those in the old, or that any more profit can be made of the former, than could ever be made of the latter.

But now, my lords, suppose, that by this Bill we could be secure of finding deputy lieutenants and commission officers, can

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we be secure of finding militia men? We may, indeed, depend upon having lists of all the men that are fit for being militia men, because the constables are to be punished by fine or imprisonment, if they neglect or disobey the orders or directions they receive: we may likewise expect, that the prescribed number of militia men will be in each county chosen by lot; but can we be secure, that the men so chosen will appear upon the day appointed to take the oaths and be enrolled, or to appoint a substitute? I think we cannot; because no man is by the Bill subjected to any penalty or punishment for non-appearance, and I believe a deputy lieutenant and three commissioners of the land-tax, would not take upon them to punish any man for non-appearance, without an express authority from the act for so doing. I could shew many other glaring imperfections in this Bill; but these, I hope, will be sufficient for excusing my giving a negative to its being passed into a law, even though I approved of the general plan of the Bill, which, for the reasons I set out with, is very far from my intention.

The Duke of *Bedford*:

My lords; when the noble lord who spoke last talked of diverting a drowning man from laying hold of a rope by which he might have saved himself, his lordship should have shown where that rope was to be found; but this he did not attempt to do, for a very good reason, because the noble lord who spoke before him had shewn, that it was impossible. The militia to be provided by this Bill may perhaps be compared to a twig, by which the nation could not save itself from the present danger; but as the soil is good, it is to be hoped that this twig will, by proper cultivation, grow up in a few years to a large trunk, by which the nation may always be able to steer itself safe to the shore: whereas, if you never put this twig into the ground, you cannot expect that it will ever grow to be of any service: and if the soil should be quite impoverished by a continual culture of foreign weeds, it will then be too late to think of planting any thing that may be useful. What I mean by the soil, is the natural spirit and courage of our men, for while these are preserved, a little exercise and discipline will always make them good soldiers; and a sufficient number of such men, when assembled together, will always deserve to be called an army. But ever since we took it into our heads to keep up a standing army of mercenary troops, and to call in foreign auxiliaries as often as we had occasion for them, we have most industriously endeavoured to extinguish the natural spirit and courage of our men, by discouraging the use of arms, and every sort of military exercise, insomuch that many of the inferior rank of people amongst us, are now afraid of handling a gun or a sword, and are terrified at the very name of a soldier; and if this should once become general among our people, it will then be too late to think of establishing a militia, for a fellow that has been bred up from his infancy in such a way of thinking, must be several years in the army before he can, if he ever can, surmount the prejudice of his education.

From hence, my lords, we may see, that what I have called the soil may at last be altogether impoverished by the continual culture of that foreign weed called a standing army; for so I must call our present standing army, even though composed of what we call national troops. Such an army never was the natural produce of this kingdom; and while it is under its present regulation, I can hardly call those that belong to it Englishmen; because they live under a quite different sort of laws, and are very uncertain of its being ever in their power to restore themselves to the enjoyment of the laws of their country; which makes our standing army of much more dangerous consequence to our liberties than it would otherwise be; for if the soldiers of our army were by law entitled, as they are in France and most other countries in Europe, to have their discharge upon demand, after a certain number of years service in the army, they would have some regard for the preservation of those liberties which they knew they might at a certain short period restore themselves to the enjoyment of; but as no soldier, no nor any officer in our army, according to its present regulation, is by law entitled to have his discharge at any time in his whole life, we could not wonder should they upon any occasion concur in abolishing those invidious liberties which they could never with any certainty hope to have a share in. And upon this occasion I must observe, that if the soldiers of our army were by law entitled to have their discharge upon demand, under proper regulations, after five or six years

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service, we should always have a great number of disciplined soldiers in the kingdom, besides those belonging to our army, which would add very much to our security against any invasion; but it seems to have been the governing principle in our late politics, to prevent, as much as possible, our having a disciplined soldier amongst us, besides those belonging to our standing army, or subject to our military law; and this is what has greatly contributed to our present danger, and to the necessity we are now under of calling in foreign auxiliaries for our defence.

But, my lords, this danger and this necessity, will I hope open our eyes, and shew us the folly of this principle. Every man must now be convinced, that we ought to have always amongst us as many disciplined soldiers as possible; and that, for this purpose, we ought to introduce some new regulations, as it is evident from experience that our present laws are ineffectual. I shall most heartily concur with the noble lord who spoke last, in thinking, that, if it were possible, every freeman in the kingdom ought to be bred to arms, and taught military discipline; and it is for this very reason I am for passing the Bill; because the design of it plainly is, to make it the interest of every man in the kingdom to breed himself to arms, and to make himself master of military discipline. The militia to be established by this Bill is not to be confined to the number appointed to be first chosen by lot: on the contrary, they are to serve but for three years; and when that time is expired, they are to be replaced by a new choice of the like number in every parish, from among those that had not before served, which choice is to be repeated at the end of every three years, so that by rotation, as the Bill expressly says, all persons, not excepted, must serve for three years in person, or by substitute.

Thus, my lords, it is plain that every man in the kingdom, not excepted, and the exceptions are as few as possible, must serve for three years in the militia, or procure one to serve as his substitute; and we cannot suppose that any man can procure one to serve for him as his substitute, without paying him a considerable allowance for every day he is obliged to attend the service; so that it will be every man's interest to serve himself, and consequently it will be every man's interest to breed himself up to arms, and to make himself master of military discipline. This Bill, therefore, goes as far, in my opinion, as it is possible for us to go by law, towards rendering every freeman in the kingdom a disciplined soldier; and I hope all the gentlemen of family and fortune in the kingdom will endeavour to render the law effectual, not only by their example, but by dispensing all the favours they have to bestow, to such as render themselves most remarkable for their diligence in the militia service, and their expertness in military discipline.

By this means, my lords, the ancient military spirit may be revived among all ranks of men, without reviving those military tenures which rendered the tenant so dependent upon his lord, that our great barons could as easily raise an army against, as in favour of the government of their country, and were but too often ready to join with, instead of opposing the invaders of their country. But no step towards reviving this military spirit can be expected from private men, unless the legislature begins with passing some new law for the purpose, and the Bill now before us, is, I think, as proper a law for the purpose as can be thought of. There may, perhaps, be some imperfections in it, some things that are not so clearly expressed, or so sufficiently provided for, as may afterwards be found to be necessary; but I have not as yet heard any thing mentioned that can induce us to reject the Bill, as no inconvenience can ensue before we shall have an opportunity to explain and amend it by a new Bill in the next sessions; and by having, before that time, a beginning made towards carrying the law into execution, we shall be much better able to judge what explanations or amendments may then be thought necessary; for till such a beginning be made we can have nothing but theory, which never does, in such a case, communicate such certain knowledge as practice.

Of this, my lords, we may be fully convinced by the very first objection that was made by the noble lord who spoke last: he was pleased to observe that, as gentlemen are not by the Bill obliged to accept of being deputy lieutenants or commissioned officers in the militia, it may be found difficult, if not impossible, to find in many countries a sufficient number of gentlemen, qualified as the law directs, that will accept of such commissions. Experience, I hope, will shew this observation to be without any foundation. As we are all now become sensible of the

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danger this nation is, and always must be, exposed to, by not having a well regulated and well disciplined militia, I hope there is so much public spirit among the landed and rich gentlemen of this kingdom, that they will all be not only ready, but proud of serving their country as deputy lieutenants or commissioned officers in the militia. But this we cannot certainly know until we have made the experiment, and we cannot make the experiment without passing this, or some such Bill as this into a law. If it should by experience be found, that the landed and rich gentlemen of this kingdom are so void of public spirit, and so regardless of the honour and safety of their native country, that few or none of them will accept of being deputy lieutenants or commissioned officers in the militia, methods must then be contrived, either for compelling them by penalties, or for tempting them by immunities or privileges.

This objection is therefore, my lords, an argument in favour of the Bill now before us, as the legislature of every country ought to have the most certain knowledge how far the public spirit of the people may be depended on, because from thence alone they can judge in what cases rewards or punishments may be necessary, for inducing or compelling men to do their duty to their country; and to qualify ourselves for defending our country by arms, when it becomes necessary, will, I believe, be admitted by all, but those enthusiasts called quakers, to be a duty incumbent upon every man of a proper age, and not labouring under any natural or legal incapacity. Then as to the other objection mentioned by the noble lord, it proceeded entirely from an oversight in his lordship, which in such a long Bill I am not at all surprised at; for the Bill expressly provides, that if any person so chosen by lot to serve in the militia, not being a quaker, shall refuse or neglect to take the oaths, and to serve in the militia, or provide a substitute, every such person shall forfeit and pay the sum of ten pounds, and shall, at the end of three years, be appointed to serve again. Surely, if any person chosen by lot should neglect to appear at the time and place appointed by the notice duly served upon him, he must be deemed to fall under this provision, and consequently to be liable to this penalty; for though he cannot be said to refuse, it must be allowed that he neglects to take the oaths, or to provide a substitute that will. But if any doubt should arise upon this head, for it is impossible to foresee, or at once to provide against all the doubts that may be started by captious lawyers: I say, if any doubt should arise upon this head, when the law comes to be carried into execution, it will be extremely easy to remove it by a new Bill next session, which may be passed into a law before this doubt can produce any inconvenience, either to the public or to any private man.

My lords, I hope, I have now shewn, that this Bill is intended, and it will at least contribute to produce that effect which the noble lord who spoke last seems to be fond of: I mean that of having all the freemen of this kingdom bred to arms, and taught military discipline; and this he was pleased to allow, and I most heartily concur with him in allowing it, to be the best guard we can have for our liberties, and the best military force we can provide for our defence. This, I say, is evidently the plan of the Bill, consequently his lordship must in so far approve of it; and I think I may venture to say, that I have fully answered the only two objections he made to the form in which the Bill now appears, therefore, I hope, I shall have the satisfaction to find his lordship concurring with me in opinion, that the Bill ought to be passed into a law.

Lord Chancellor *Hardwicke:* *

My lords; we have it from the highest authority, that, in the multitude of

* The following is a correct Report of Lord Chancellor Hardwicke's Speech upon this occasion, taken from a copy which the noble and learned lord caused to be printed for the use of his friends.

A SPEECH in the House of Lords, on the third reading of the Militia Bill, May the 24th, 1756; when the Bill was rejected, on a division, by a very great majority.

My lords; I am extremely sorry to find myself obliged to differ from the noble duke (of Bedford) who spoke last. The great respect which I have always professed, and sincerely bear to his grace, will, I am confident, convince him, that I am in earnest in this declaration; and that it is not merely an exordium of form. But, my lords, I am more sorry, that this Bill, so important, and on a subject of so much difficulty, after having depended

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counsellors there is safety; but we in this nation may from experience say, that in the multitude of legislators there is confusion; for our statute books are increased to such an enormous size, that they confound every man who is obliged to look into them; and this is plainly owing to a great change which has by degrees, crept

almost four months in the other House, comes now to be debated originally, and for the first time, in this last stage of it.

Nobody has a greater regard than I have for the persons, or abilities, of those who brought it in, that have been the patrons of this Bill; nor can any man be more ready to admit, that it was very laudable in them to turn their thoughts to some scheme, for rendering the militia of this country useful. It appeared to me, to have been brought in with a reasonable view; a view of prudence and temper; talked of, and believed in general, as if intended to lie over to another session of parliament, to be fully understood and considered. For what reasons that intention was departed from, especially as it is avowed, that it can be of no use in our present exigency, I cannot imagine.

As I have had the misfortune to be all along of opinion against this Bill, as now planned and formed, I think it my duty to declare my thoughts upon it openly and at large. But, as I am not perfectly well at present, I must desire to be heard with indulgence, and with some excuse for what I shall say. I do not mean this, as to the opinion I shall give, for of that opinion I am in my conscience convinced; and I shall deliver it with the same freedom, as if I had no other seat in this House but my place on the cross benches, and with the same truth and sincerity, as if I was absolutely certain, that it was the last opinion which I should ever give here.

My lords, I am aware that certain prejudices may arise, in the minds of some men, against what I am going to offer to your lordships. They may suspect, or pretend to suspect, that I am against a militia in general; that I am for creating and perpetuating the necessity of introducing foreign forces into this kingdom. But I do absolutely disclaim both these views. I am for a militia, and I am against laying the nation under the necessity of resorting to the aid of foreign forces in general. I think it an unhappy necessity; but I would not have this understood to every intent. There may be instances, in which it may be much more wise and politic to make use of foreign assistance, than to increase your national troops to a vast army, and to the utmost extent. The numbers of your people will not bear it; and it ought in prudence and good policy to be attended to, that a great army of natives may not be so easily got rid of, either in present, or in respect of the consequences, as foreign troops may be sent home.

My lords, the debate now comes upon the merits of the Bill. All questions of amendment are, on the third reading, out of the case; nor could I observe, when this Bill was in the committee, any disposition to admit of amendments. Attempts of that kind were rather looked upon, as if it meant indirectly to defeat the Bill.

The fundamental question, arising upon it, is a constitutional question, and has relation to two of the most interesting points, which can possibly come under the consideration of parliament:

1. The prerogative of the crown, and the general balance of power in this constitution.

2. The state of this country, in respect of the education, employment, and industry of your people.

These will be allowed to be important points; and if this Bill alters them, it alters them by a perpetual law.

Before I speak to the question, How far the general balance of this constitution will be affected, I beg leave to say a few words concerning the prerogative of the crown.

My lords, I can with truth affirm to your lordships, that I am not for stretching the prerogative; nor was I ever thought, by any impartial man, one of those, who are called prerogative lawyers. I am only concerned for the due temperament of this mixed government; that this limited monarchy, established since the Restoration, and improved at the Revolution, may be preserved, and delivered down unhurt to posterity.

The history of the dispute in the reign of king Charles 1, about the power of the militia, is well known to all your lordships; and so are the deplorable consequences, which followed from that, together with other fatal contests. At the Restoration, it was found necessary to be settled and quieted. It was one of the first great

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into our constitution. In old times almost all the laws which were designed to be public acts, and to continue as the standing laws of this kingdom, were first moved for, drawn up, and passed, in this House, where we have the learned judges always attending, and ready to give us their advice and assistance. From their know-

points settled, under ministers who loved and understood the constitution, and meant to restore it only as a limited monarchy; I mean my lord chancellor Clarendon, and my lord treasurer Southampton.

The act of parliament of the 13th and 14th of king Charles the second, cap. 3d, was framed with the greatest deliberation in both Houses; and the first part of it is a declaratory law, intended to ascertain the power.

That act recites, "Forasmuch as within all his majesty's realms and dominions, the sole and supreme power, government, command, and disposition of the militia, and of all forces by sea and land, is, and, by the laws of England, ever was, the undoubted right of his majesty and his royal predecessors, kings and queens of England, and that both, or either of the Houses of Parliament cannot, nor ought to pretend to the same, &c." "Be it therefore declared and enacted, &c."

This is a legislative determination; the judgment of parliament given by act of parliament, upon this capital point, the Jus Gladii.

Consider, my lords, what is now done by the present Bill.

The act of 13 and 14 Car. 2 is absolutely and totally repealed from Michaelmas day next; and consequently this declaration is repealed. It is a reversal of this parliamentary judgment.

The method should have been to have asserted the right, and to have repeated the same proposition in the present Bill, which is contained in the former law. It was obvious, and is the common method of parliament.

What do the Commons do in every Mutiny Bill, which they annually send up to your lordships? They constantly insert the same preamble, and repeat the recitals. "That a standing army in time of peace; execution of martial law in time of peace, are against law."

These points are as known established law, and declared by as express acts of parliament still in force, as the power of the crown over the militia; and yet are always repeated by way of continual claim, even in Bills, which import no repeal, nor colour of repeal, but proceed on the contrary supposition. And I hope the Commons will always continue to adhere to this practice. It is right in such fundamental points.

But is it not equally right, that the same measure should be dealt to the crown?

My lords, there is a plain reason why it was not done. The reason was, that it would have been inconsistent with the enacting part of this Bill. To prove this, I need only refer your lordships to the clause in page 22 of the printed Bill now in my hand, which runs thus; "Be it further enacted, That in case of actual invasion, or imminent danger thereof; or in case of rebellion, it shall and may be lawful for his majesty, his heirs, and successors (the occasion being first communicated to parliament) to order and direct his lieutenants, or on their death, removal, or absence, any five or more deputy-lieutenants, with all convenient speed, to draw out and embody all the regiments and companies of militia men, or so many of them as his majesty, his heirs, and successors, shall judge necessary, beginning with such county or counties as shall be nearest to the danger, and so proceeding regularly, till a sufficient number of troops shall be drawn out and embodied, and the same to direct to be led by their respective officers into any parts of the kingdom, for the suppression of such invasions and rebellions."

Here your lordships find the only power which is given by this Bill to the crown to make use of this militia; and a formal communication of the occasion to parliament is made a condition precedent, indispensably necessary to the exercise of it.

Many cases may happen wherein the king's crown may be endangered, this nation be undone, before any one man of this militia can lawfully be made use of.

Suppose imminent danger of an invasion should appear, or a rebellion break out, and the parliament be under a prorogation for six weeks or two months; they cannot by law be convened before the day. It was once attempted in the year 1667, on the occasion of De Ruyter's coming up to Chatham, and, upon great deliberation, departed from.

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ledge and experience they must be allowed to be best able to tell, whether any grievance complained of proceeds from a non-execution of the laws in being, and whether it be of such a nature as may be redressed by a new law. In the former case, a new law must always be unnecessary, and in the latter it must be ridiculous;

Suppose such an emergency should arise, the parliament being then actually sitting, or capable of meeting in due time, and, upon the communication required by this Bill, either House of Parliament should address the crown not to call out the militia, or vote that it is not a proper occasion for calling them out, what officer, what minister of the crown, will venture to order them to march out; or, if they should, would they be obeyed?

From the strict penning of this clause, it also follows, that the crown cannot make use of this militia to suppress a sudden insurrection, or even a mob.

Another substantial restraint upon the crown is, that no pay is provided for this militia by the Bill, nor any method of raising money for it. The avowed scheme is, that it should be provided for only by annual grants in parliament.

Your lordships all know, and feel, that those are in the discretion of the Commons, whether they will grant them or not. I will not suffer myself to doubt, but that in fact they will do it; but, in making perpetual laws, as little as possible should be left to accident.

This creates another essential difference between the act of 13 and 14 Car. 2, and the Bill now sent up to your lordships; for, by the former law, standing powers are given to compel the pay of the militia, though by accident they may sometimes be interrupted.

I think I have now clearly proved to your lordships that, by this Bill, the power of the militia is taken away from the crown.

Permit me, my lords, to stop here, and ask, and I do it with confidence, what ground is there for that spirit of jealousy, which runs through this Bill?

I will not make use of the king's name improperly; but when the question is concerning taking away power from the king, or giving power to him, it is parliamentary and necessary. It is not within the compass of language to make one's self understood, without naming, or, at least, describing the crown.

Has his majesty, who wears the crown with so much lustre, deserved this jealousy? Every lord who hears me, will agree with me that he has not. Look back through the legal, the mild, the benign course of his reign. After a reign of almost thirty years, the king may make Samuel's appeal, when he demitted his high office of judge of Israel, under the theocracy, "Whose ox, or whose ass have I taken, or whom have I oppressed?" What I contend for is, that nothing may be done in derogation of the rights of this limited monarchy; nothing done to hinder his majesty from transmitting the crown untarnished, and with equal lustre, to that amiable illustrious young prince his successor, on whom all our hopes are fixed, after God shall take him from us.

But, my lords, it is not in this point of prerogative only, that the Bill operates a change in your constitution.

In the execution of the most material powers given by this Bill, the commissioners of the land-tax are made integral constituent parts of the meetings. They are let in without stint as to number, and three of them are made necessary to be of the quorum, although no more than one deputy-lieutenant is required; so that the commissioners of the land-tax may, at the greater part of those meetings, out-vote the deputy-lieutenants.

Care has indeed been taken to insert words in this Bill to carry an appearance of raising the qualifications of the commissioners of the land-tax, who are enabled to intermeddle in the execution of this act. But this clause is merely a shadow of raising the qualification, for it is in reality lowered by it. It provides, "That no such commissioner shall be capable of acting in the execution of this act, unless he be seised and possessed, in his own right, of lands and tenements of the clear yearly value of one hundred pounds, or more." Whereas the acts for the land-tax enact, that no commissioner shall be capable of putting those laws in execution, unless he be "seised and possessed of lands or tenements which were taxed, or did pay, in the county or riding for which he shall act, for the value of 100*l.* per annum, or more, of his own estate." From hence the fallacy in this Bill is manifest; for every body knows, that, in most of the counties in England, lands, assessed to the land-tax at the rate of 100*l.* per annum, are of much better value than lands

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and when by the opinion and advice of the judges we find, that neither of these is the case, we have their assistance, whereby we are enabled to draw up a new law in such a manner as to render it effectual and easy to be understood. This is the true reason why, in former times, we had but very few laws passed in parliament, and

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barely of the rent of 100*l.* per annum. And it might be further observed, that the omission, in this Bill, of the words, "in the county or riding for which he shall act," will make it very difficult to find out the want of qualification in any of the commissioners, who may assume power under this new law.

I have sometimes wondered, what could be the reason why those, who had the framing of this Bill, were so fond of investing the commissioners of the land-tax with these extraordinary and extensive powers; for, as to myself, I have hardly met with any body, either in or out of parliament, who professes to approve of it.

What kind of persons are these commissioners of the land tax? Many, even of the acting ones, are some of the lowest people of any kind of property in this kingdom; and yet this whole militia, an army of near 62,000 men, may come, in effect, to be formed and modelled by them. Whenever they have been invested with any authorities or powers beyond their proper office, they have generally done harm. As one demonstration of this, I need only call to your lordships' minds, the many abuses, in the execution of the laws about the distempered cattle.

But, in the present case, it is to be considered in a higher light. They are a body of men named solely by the House of Commons; not one of your lordships is ever appointed. The Commons will not suffer you, or the crown, to interfere in the nomination. So here may be a militia, taken out of the power of the crown, and modelled by a set of men, entirely independent of the crown and of the peers.

I object to this, as it will affect the balance of the constitution. The scale of power, in this government, has long been growing heavier on the democratical side. I think this would throw a great deal of weight into it. What I contend for, is to preserve the limited monarchy entire; and nothing can do that, but to preserve the counterpoise.

My lords; there is another thing under this head, which deserves to be attended to by your lordships. The whole discipline of the militia is by this Bill taken out of the deputy lieutenants, and the officers of the militia, and put into the justices of the peace, excepting only at the particular times when they shall be marched out for actual service.

Look through the Bill, and every punishment upon the common men (for I find none at all provided against the officers) is by complaint before justices of the peace. This is extended even to the most material point of military service, and the greatest exigency. If any militia-man, so ordered to be drawn out and embodied as this Bill directs, shall refuse to march in pursuance of such order, he is to be punished only by a pecuniary penalty, the forfeiture of forty pounds upon conviction before two or more justices of the peace: and, in case such penalty shall not be immediately paid, to be committed by their warrant to the county-gaol for the space of twelve months.

Is it not surprizing that it should enter into any man's head to invent such a penalty, as a military punishment, against a common soldier, for disobedience to orders, which require immediate marching and action?

But this is not all. Here is no clause inserted in this Bill to take away or exclude the writ of Certiorari, for removing these proceedings into a superior court; a provision frequent in modern laws, where delay is not so fatal. On the contrary, every one of these convictions is left liable to be removed up into the court of King's Bench; by means whereof their effect must be suspended, whilst the matter is depending there. If one could possibly be disposed to indulge humour on so grave an occasion, I might congratulate my friends, the judges of the King's-bench, on their being made inspectors general of this army.

Thus the government of the militia is, in the first place, taken out of the crown; next out of the hands of the deputy lieutenants, and their own officers; and then brought into Westminster Hall.

What a plan of discipline is here for an army?

My lords; I know there are those, who assert that the scheme of this Bill will encrease the power of the crown. In my opinion, as the present Bill is formed it will do the direct contrary. But I allow that it will finally depend on future acts of

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very seldom, if ever, a posterior law for explaining and amending a former.

This, I say, my lords, was almost the constant method of law-making in old times; and that this method of law-making is most agreeable to the nature of our constitution, must appear from the very words of the writs of summons to parliament;

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parliament hereafter to be passed, whether it may not encrease that power.

But I am free to own, that I should be as much against any considerable addition of power on that side. What I still contend for, is the balance of this limited monarchy.

However, for argument's sake only, I will admit it to be problematical, whether this Bill will encrease the power of the crown, or of the people, as to the militia.

I will not take upon me to determine, but I do not know whether this may not be the worst state of all; because it lays a foundation for perpetual dispute and contest. Power decided takes a regular course. When it is exorbitantly exercised, it operates, and produces, its own checks and remedies. But power undecided naturally begets perpetual contention and struggle.

This, my lords, was evidently the case in those unhappy days of king Charles the first. At that time the crown claimed this power, and the Commons claimed it. The king raised a militia under his commissions of array. On the other side the parliament raised a militia under their ordinances of lieutenancy. Out of these two militias, the two armies were formed which spread so much devastation, blood, and carnage throughout the kingdom: and at last this parliamentary militia, with parliament colonels at their head, qualified according to their own hearts desire, turned their masters out of doors.

I would not be understood to prophesy any thing of this nature. God forbid! I am sure no such thing was in the thoughts of any one of the patrons of this Bill. But I must own, I see many seeds of dissention, scattered and sown in the frame of it, between this militia and the regular forces raised under the annual grants of parliament.

My lords; the next grand consideration, which I think it my duty to lay before your lordships, is, what effect the plan of this Bill will naturally have upon the state of this country, in respect of the education, employment, and industry, of the people.

I may want lights; and I may think weakly; but I am firmly persuaded, that, if a militia is established upon the plan of this Bill, it will make this country absolutely a military country.

For my own part, I never was more convinced of any proposition in my life than of this, that a nation of merchants, manufacturers, artisans, and husbandmen, defended by an army, is vastly preferable to a nation of soldiers.

Since the reign of queen Elizabeth, more especially since the Restoration, when military tenures were totally abolished, the people of this kingdom have been gradually weaned from arms, and formed, and habituated to trade, manufactures, and arts. From hence, as from one great source, have flowed your commerce, your colonies, your riches, your real strength; which has enabled you to make that glorious figure, which, not a great many years ago, you made in Europe; and to balance the power of your neighbours; some of whom have far outgone you in national military force.

Before those periods, more especially before the reign of Henry 7th, the commons were under a kind of feudal vassalage and chieftainship; followers of the barons and great men; something like the case of Scotland. The younger sons of the nobility and gentry lived as retainers to the families of their elder brothers, bred to nothing but arms and sports. Since queen Elizabeth's reign, particularly since the Restoration, it has been thought no disgrace to the younger sons of the best families in the kingdom, to engage in commerce.

From these changes in the condition of your people, habits of industry were propagated, and for a long time examples of industry were followed. I wish I could add, they are continued. The improvements, and various happy consequences arising from them, are too apparent to want to be explained to your lordships.

My lords; it is a self-evident proposition, and must be admitted to me, that the being educated and trained to arms, gives a habit, and a love of that kind of life. Amongst the common people, it introduces a love of idleness, of sports, and at last of plunder.

Consider then what the plan of this Bill does.

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for the writs of summons to the members of this House are 'ad consulendum,' whereas the writs for the other House are only 'ad consentiendum.' But this method seems now to be quite altered: every member of the other House takes upon him to be a legislator, and almost every new law is first drawn up and passed

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The proposed number of this militia is 61,520 private men, non-commissioned officers included.

The friends of the Bill are so candid as to allow, nay, to contend, that they do not mean it with a view to lay aside your standing army, annually provided by parliament. That has for several years past, in time of peace, been about 19,000 men. So that if this Bill should take effect, these two bodies taken together will amount to the number of 80,000 men.

This militia of 61,500 men is to be strictly exercised and trained; and, by the provisions of the Bill, to be changed every three years, and some of them at the end of every two years.

Thus, in a course of twelve years here will be 240,000 or 250,000 men trained to arms for the militia. I will suppose, that the same regular force will be annually continued; you may then compute that, in twelve years time, more than 50,000 men will be taken out for the recruits of that regular army. On this computation, here will be every twelve years 300,000 at least of your male subjects, from the age of eighteen to the age of fifty, the vigour of their life for labour and industry, trained to arms. I do not pretend to much skill in political arithmetic; but I leave it to your lordships superior judgments, whether the numbers of your people can afford these draughts? Is it probable, that the same persons, after having been thus accustomed to arms and idleness, will ever settle to trades, agriculture, and industry? I believe, that is not to be found in the history of any country.

Consider, my lords, what was the case of the northern parts of Scotland, and what you have been doing there for several years past. The practice and habit of arms made that people idle; averse to agriculture and labour; followers of sports, next of thieving, and at last of rebellion, as a more extensive scene of plunder. I say a more extensive scene of plunder, because I have always been of opinion, that the love of thieving and rapine has been one main ingredient in the Highland insurrections, as well as jacobitism and clanship. In order to cure this mischief, and to lead, or compel them to be industrious, you have been obliged to disarm them by law. After having pursued these maxims for so many years, will your lordships now, by a new law, endeavour to introduce the same disposition and habit into the common people of England? I repeat it again, that it is to this progressive change in your people, from arms to industry, that your commerce, your colonies, and consequently your riches, are owing.

What is the object of the present war? The preservation of that commerce, and of those colonies. If you turn the bulk of your common people into soldiers, what will become of all these? You may indeed stand upon your guard, with arms in your hands; but, in a course of years, I fear you will have little in value left worth guarding; an untrading, unmanufacturing, unimproved, impoverished, country. To this I may apply what Horace says of a man's employing his whole time and thought in the care of his health; it will be "propter vitam vivendi perdere causas."

My lords; in treating the subject in this manner, I have made many concessions, or rather proceeded upon many suppositions, in favour of this Bill; I mean, that it is capable of being carried into execution. But I am convinced that it is entirely inexecutable, will create infinite perplexity, trouble, and uneasiness, in the country, and end in nothing but confusion.

I have said all this upon general topics, which affect and impeach the system of this Bill; I will therefore be as short as I possibly can in my objections to the particular provisions of it, and touch upon the principal ones only.

1. The number of deputy lieutenants in every county is directed to be twenty or more; their qualification to be 600*l.* per annum in land, one half of which is required to lie within the county or riding for which they are appointed deputy lieutenants. Besides this, there is to be a sufficient number of field officers, captains, and subalterns, so qualified as the Bill directs.

I believe it is very certain that few counties in England can furnish so great a number of gentlemen so qualified. What is then to be done? The lord lieutenant is obliged by the Bill, to appoint "such a number of deputy lieutenants, as can be

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in the other House, so that we have little else to do, especially towards the end of the session, but to read over and consent to the new laws they have made: nay, some of them are sent up so late in the session that we have hardly time to read them over, and consider whether we shall consent or no, which is remarkably the

found in the county or riding, duly qualified as aforesaid;" that is, he must appoint all gentlemen whatsoever of such an estate; for "duly qualified as aforesaid" is by estate only, without regard to any other qualification whatsoever, even their loyalty or good affections to the king and his government. I dare say it is not the case of any one county in England; but I may, for argument sake, suppose a case, that some one county may not be able to furnish twenty gentlemen, so qualified by estate as this Bill directs, who are fit to be trusted with these powers. The consequence will be, that the lord lieutenant will be compelled by law to appoint others, whom he knows in his conscience not fit to be trusted with them.

2. All the officers of this militia, qualified with such estates as have been mentioned, are excused from serving the office of sheriff. If this Bill should pass into a law, where will the crown hereafter find gentlemen qualified to serve the office of sheriff, upon which the execution of law and justice so much depends? However military we may be growing, I hope this will not be treated as a matter of light moment. It is a trite old saying, "Cessa regnare, si non vis judicare." Besides, these officers are entrusted with the return of members to serve in parliament.

3. The utility of this militia depends on the use which may be made of it in case of an invasion, or imminent danger thereof, or of rebellion. There may be sudden emergencies necessary to be opposed or crushed, or to be prepared against, in a very few days. And yet, from the observations which I have already submitted to your lordships, on the obligation to apply to parliament, contained in the clause, page 22, the source of this force, so boasted, and so relied upon, may be entirely shut up for six weeks or two months. What is this but to pretend to give the king a new sword, and at the same time to clap a padlock upon it?

But this is not all. Even this limited restrained power does not extend to two material cases, in which the militia may be wanted, I mean insurrections and tumults, for they are omitted out of the clause.

The noble duke mentioned the known story of the Cornish men, under sir Bevil Grenville and sir Ralph Hopton, in the civil war; that, after a considerable advantage gained, they refused to march out of their county to pursue it, because not compellable by law. His grace produced this as a proof, that this Bill gave a new advantage to the crown, by enabling it to march the militia out of their proper county, in case of invasion or rebellion. But this proceeded from a mistake. That body of Cornish men was not militia, but the trained bands, raised by the authority of the sheriff, as the posse of his county. Besides, since the Restoration, by the statute of the 13th and 14th of Charles the Second, the crown is enabled to command the militia, in such cases, to march into any county in England.

4. No powers are given by this Bill to compel carriages for this army, when it is called out.

5. My lords, there appears to me to be another strange omission, which, I dare say, was through mere inadvertency. In the Militia Act of king Charles 2, sect. 14, a power is given to the lord lieutenant and deputy lieutenants to "search for and seize the arms of persons, whom they shall judge dangerous to the peace of the kingdom." This power is totally repealed by this Bill, and no such new power given. Nay particular care is taken that it should not subsist, even by implication; for, in page 2, of the printed Bill, the present deputy lieutenants are continued "only for the purposes of this act." In the Bill, as it was reported from the committee of the House of Commons, there was added, and "for all other intents and purposes;" but those words are now industriously left out. Laws are often necessarily adapted to particular times and circumstances. Is this a time, when any well-wisher to this royal family, and to the present establishment, would incline that this power should be repealed?

6. There is one thing more, which I will but just touch upon, I mean the constant exercising on Sundays. The observation of that day is already shamefully neglected in this metropolis, and in the country not kept up in the orderly manner it ought. But still, in its present low state, it is almost the only public appearance of religion left amongst us. If

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case with respect to the Bill now under consideration: a Bill which consists of near threescore different clauses, and a Bill which underwent many alterations in the other House, and took up so much of their time, that they have scarcely left us so many days to consider it, as they employed months in framing it.

My lords, by this new method of law-making, the business of the two Houses seems to be so much altered, that I really think the writs of summons ought to be altered: those for the other House ought now to be 'ad consulendum,' and those to the members of this 'ad consentiendum.' But this is far from being the only inconvenience: the other House by their being so numerous, and by their being destitute of the advice and assistance of the judges, are too apt to pass laws, which are either unnecessary, or ridiculous, and almost every law they pass stands in need of some new law for explaining and amending it: and we in this House either through complaisance, or through want of time, are but too apt to give our consent, often without any amendment. By this means it is, that our statute books have of late years increased to such an enormous size, that no lawyer, not even one of the longest and most extensive practice, can pretend to be master of all the statutes that relate to any one case that comes before him; and this evil goes on increasing so much, every year, that it is high time for this House to begin to put a stop to it, by resolving not to pass any Bill for introducing a new and standing law, that comes from the other House, unless it comes up so early in the session as to leave us sufficient time to take the advice and assistance of the judges upon it, and to consider every clause of it maturely; and in every such case we ought to consider, whether a new law be

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this institution should be established by a law, I will venture to foretell, that, notwithstanding the injunction to go to church, it will be a constant fair and scene of jollity in the several parishes, where those exercises are kept, and the face of religion will soon be abolished in this country.

7. The last thing, which I shall mention, by way of particular objection, is the loose and unsafe custody, wherein the arms of this militia are directed to be deposited. Can any thing be more dangerous to the peace of the kingdom, than for so great a quantity of arms to be distributed about the country, in the houses of churchwardens, seldom stronger or more defensible than cottages? In cases of rebellions and insurrections, nay of riots, instead of being arms for your defence, they will be arms in the hands of the disturbers of the public peace.

I am sensible how tedious I have been; and I should become much more so, if I attempted to go through all the particular objections, to which the frame of this Bill is obviously liable.

But, my lords, I must now make good my word, and shew your lordships that I am not against a militia in general, nor for creating a constant necessity of foreign auxiliaries.

If a Bill had been sent up to your lordships, or should be sent up the next session of parliament*, constituting a militia

* *N. B.* In the next session of parliament, a Militia Bill was sent up by the Commons, and amended in the House of Lords agreeably to this idea; and received the royal assent, June 28th, 1757.

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of about half the number now proposed; the power of the crown not taken away, but asserted, and proper authorities given to the crown over that Militia; although to preserve a balance, even the landed qualifications of field-officers and captains had been made part of it;

Or, in case it had been judged more proper, if a Militia had been proposed of about half this number, consisting of private men only, to be drawn out and incorporated, under safe and reasonable regulations, into the corps of his majesty's regular forces, upon emergent occasions; such a Militia, in either of these shapes, I could have concurred in. Such a number possibly the quantity of your people might bear; and, with the number of regular forces usual of late years, would have made up an army of very near 50,000 men; sufficient, I believe, for any occasion which might probably happen.

If any body shall now say that I am against this Bill, because I am against any Militia, which may be useful; if it is said within these walls, I will call it a mistake; if it is said without doors, I will aver it to be a calumny.

My lords; I have taken up too much of your time. I heartily ask pardon for it; but I thought it my duty openly and fully to avow and explain to your lordships the reasons of my vote against this Bill.

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necessary for the purpose intended; for no new law ought ever to be made, unless it appears to be absolutely necessary, as a multitude of useless laws is one of the greatest plagues a people can be exposed to: in the next place, we ought to consider, whether the inconvenience, or grievance intended to be removed, be of such a nature, as to admit of being cured by any human law; for if it be not, we render ourselves ridiculous by the attempt: in the third place, we ought to consider, whether by endeavouring to remove the grievance or misfortune then complained of, we may not probably introduce a much greater: and in the fourth place, we ought to examine very strictly, whether the law be conceived in such terms as may be effectual for the end intended, and the several clauses so clearly expressed as can admit of no doubt.

My lords, I believe every one who hears me will agree, that we ought to have all these things under our consideration, before we give our consent to the passing any Bill into a law; and from hence every one must, I think, agree, that we cannot this session have time to consider such an important Bill as this now before us, in such a serious and deliberate manner as we ought to do, before we give our consent to its being passed into a law. For my own part, I must confess, that I have not had time to examine this Bill near so thoroughly as in duty to my country I think myself obliged to do: and from the cursory manner in which I have examined it, I cannot satisfy myself upon any one of the heads I have mentioned. Perhaps, a due execution of the laws now in being might render our militia more serviceable than they are at present, or, if any new regulation were necessary, it might, perhaps, be sufficiently provided for by some few amendments to the laws now subsisting; in either case, such a new and such an extraordinary regulation as is to be introduced by this Bill, would be quite unnecessary. We have still subsisting many old laws for breeding the people up to arms, particularly one so late as towards the latter end of Henry 8, by which it was enacted, That parents and masters should provide for each of their sons and male-servants between 7 and 17, a bow and two shafts, and cause them to exercise shooting; and that sons and male-servants, between the age of 17 and 60, should be furnished with a bow and two arrows, and should practise shooting therewith. Suppose this law were amended, and muskets and pistols put instead of bows and arrows: I believe it would contribute more towards propagating, or, if you please, reviving a martial spirit among the people, than any thing contained in the Bill now before us; and if you can revive a martial spirit among the people, it will contribute more towards rendering our militia useful, than any law you can make for its regulation; for it is not so much the defect of the militia laws made in Charles the 2nd's reign, as the decay of this martial spirit among the people, that has made our militia so contemptible and useless, as it is at present.

But, my lords, this spirit can never be revived or propagated solely by any law for assembling and training the militia: every sort of popular spirit depends more upon fashion than upon law, and the fashions in every country proceed from, and depend upon, the example or practice of the rich and great. If they, in every part of their behaviour, shew a true martial and active spirit; if they are every day seen employing themselves in some sort of military exercise; and if they shew a superior regard to such of their inferiors as they find most expert at those exercises: the spirit would soon spread like wild-fire among all ranks of people, and then the laws you already have would be fully sufficient for rendering the militia useful: gentlemen of the best families and fortunes in the kingdom would not only accept, but aspire to have commissions in the militia: instead of having but one general muster in the year, or training, by single companies, but four times in a year, they would all concur in desiring the lord-lieutenant, or the deputy-lieutenants, of their respective counties, to muster and train them as often as he or they pleased; and every man would gain esteem among his companions, according to the knowledge he acquired of military discipline, and the agility and expertness he shewed in the performance of all sorts of military exercises. Our militia might then, indeed, be as good as any regular troops; because they would then be actuated by as true a martial spirit as any regular troops ever were, and in a year or two would be as much masters of military discipline as any regular troops can be.

This I say, my lords, would be, without any new law, the consequence of your reviving and propagating a true martial spirit among the people in general, and unless you can do this, no law you can make will

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ever render our militia useful, or at least not so useful, as to be depended on against an invading army of foreign veterans. Therefore, this Bill is not only unnecessary, but really it seems to me to be ridiculous, as it aims at doing what, in the nature of things, cannot be directly done by any new law, but, if ever done, must be done by introducing a new fashion, and in this I fear, we shall never be able to obtain the concurrence of the rich and great amongst us, without which no new fashion can ever be introduced; for whilst they have another way of recommending themselves to the notice of our government, to wit, by voting and speaking in parliament, or by their influence at elections, I am afraid they will never be at the pains to aim at recommending themselves by their knowledge of military discipline, and their daily practice of military exercises.

My lords, the third consideration, which I mentioned, as always necessary for us to have in view when we are about passing any new law, was, whether we are not by removing one grievance exposed to the danger of introducing a much greater; and from hence there appears to me a very strong objection against our passing this Bill into a law. I shall grant, that it would tend to the honour and safety of the nation, to have all our men of any property indued with a true martial spirit, provided with proper arms, and instructed in military discipline, but I am afraid of carrying it down to the very lowermost rank of our people, because it might produce two very dangerous effects. In the first place, it would take their minds very much off from industry or labour, and in the next, it would incline them to be mutinous and riotous. This was, perhaps, the reason why, in the militia act passed after the Restoration, persons of no property were not charged towards the militia, nor obliged to serve in the militia, unless hired to serve for others. But by the Bill now before us, the ploughman and journeyman tradesman must serve his three years as well as his master, nay, I believe, it will be such only that will serve, because I doubt if any man will serve who can spare to hire one to serve for him: thus none but the very lowest rank of our people are by this Bill to be bred to arms, or taught military discipline; and as the arms are to be lodged in places where the mob may easily come at them, we may again see a Wat Tyler or Jack Cade triumphing, with much greater success, over all the men of property in the kingdom; for if such a mob should once get to any head, especially near London, I am afraid most of the common men of our regular army would join them. Thus a Patrona Ali might overturn our government, and place a new sovereign upon our throne, as well as he did at Constantinople; but as the mob of this country have no such religious regard for the royal family as they have in Turkey, that new sovereign would certainly be one, and probably one of the most infamous and cruel among themselves.

These, my lords, are in general my sentiments of the Bill now under our consideration. Perhaps they may be wrong; but if they are, it proceeds from my not having had time to consider the Bill so thoroughly as I ought, and not from any prejudice against the measure supposed to be intended. The measure itself I highly approve of: I most heartily wish that all the men of property in the nation were bred to arms and taught military discipline, but my wish does not go so low as journeymen, day-labourers, and servants. Our men of property are our only freemen, according to the meaning of the word among the old Grecians and Romans: they had no such men among them as those we call servants: their servants were all slaves; and they never put arms into the hands of their slaves, but when they were in the greatest danger and distress. Even then they made them free the very moment they had put arms into their hands. This Bill is therefore so far from being agreeable to my wish, that it is directly contrary to it; for as I have said, the certain consequence will, in my opinion, be, that our servants will be the only men amongst us that are to be bred to arms and taught military discipline.

My lords, this, I am convinced, was not the end intended by the hon. gentlemen who had the drawing up of this Bill, therefore it is evident that it is not conceived in such terms as may be effectual for the end intended; and as to the several clauses, if I were to enter into a particular examination of them, I could shew that doubts must arise upon almost every one of them, and that some of them are such as will in practice be found absolutely inexecutable. Even as to the appointment of deputy-lieutenants and commissioned officers, I am in some doubt whether those that shall be appointed may

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not, if properly qualified, be obliged to serve; for the laws for empowering our sovereign to appoint sheriffs, do not, by any clauses in them, oblige those who are appointed to serve; and yet we know that they are, and have always been obliged to serve. If this doubt should be determined in the affirmative, it will be deemed such a hardship as must raise a general discontent; and if it should be determined in the negative, I am, with the noble lord who spoke first against this Bill, fully convinced, that in many counties it will be impossible to get gentlemen to accept. This, it is true, cannot be certainly known until a trial be made, but to make a law which shall upon trial be found absolutely inexecutable, will surely derogate from the character of the legislature, and this we ought to avoid for our own sakes, as well as for the sake of our constitution, which would be in very great danger, if the people should conceive a mean opinion of the wisdom of the legislature.

For this reason, my lords, I am of opinion, that the objection made to the Bill by my noble friend, is far from being weakened by the answer that has been made to it; and his other objection did not proceed from a mistake or oversight of his, but from a mistake or oversight in the drawing up of the Bill. We all know how strictly our penal laws are interpreted; how strictly they always ought to be interpreted; for upon this the safety of every man's life, liberty, and property, in a great measure depends. Therefore, whatever the noble duke may think, I do not believe that any cautious judge would, I am sure no judge ought, to subject a man to a penalty for not appearing, when the law inflicts that penalty only upon his refusing or neglecting to take the oaths. Besides it might have been out of the man's power to have appeared at the time and place appointed; therefore this clause ought to have been drawn up in a more full manner, and some room left for unforeseen and unavoidable accidents, by which a man's appearance might be prevented.

My lords, this Bill likewise labours under the same inconvenience that most of our late new laws labour under, by which I mean that of multiplying excessively, and in most cases needlessly, the number of oaths. We have already rendered oaths so frequent, that even perjury itself is, I fear, become familiar to many of the vulgar, and this Bill will add greatly to the misfortune. I can see no reason why any man should be obliged to swear to his qualification, as he is to be fined if he acts without being duly qualified; and in many cases an oath is to be administered where it is quite ridiculous to require any such solemnity: a militia man cannot by this Bill be punished for being absent, for being drunk, for giving the lie to his serjeant, or for any other little peccadillo, without a solemn oath before a justice of the peace. But, my lords, it would be endless to take notice of all the errors, oversights, and imperfections of this Bill, therefore I shall add no more, but conclude with declaring, that, in the light I view it in at present, I cannot give my consent to its being passed into a law.

Lord *Talbot*:

My lords; I shall grant that, since the Revolution, the number of our statutes has increased far beyond its due proportion, with respect to any preceding period, but this increase is entirely owing to the vast increase in the number of our taxes; for if all the laws for imposing and regulating our taxes were to be left out of our statute books, the size of those books, since the Revolution, would not, I believe, much exceed their due proportion; and, notwithstanding the form of our writs, it is certain that Money Bills have always been first prepared and passed by the other House before they could be brought into this: even the Bill now before us was, I think, most properly first prepared and brought in by the orders of the other House; for as they are the representatives of the people, they are the best judges what sort of militia will be least burthensome to the people, and what number of men may be furnished by each respective division. I therefore hope, it will not be considered as an objection to the Bill now before us, that it was first brought in and passed by the other House; for if we be ever so lucky as to obtain a law for establishing an useful militia, the Bill for that purpose must, I believe, be first brought in and passed by the other House; and that Bill must be passed by us; I hope it will be passed by us, even though upon the third reading, some objections should be made to it; for as it is much easier to criticise than to compose, it is impossible for the wit of man to form a Bill so as to prevent its being possible to start an objection to any part of it. In all such

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cases, if the objections be such as cannot then be removed by amendments, and the errors such as cannot produce any great inconvenience, the best thing we can do is to pass the Bill as it stands; because when the law comes to be carried into execution it will then most clearly appear, whether the objections were well founded, and if they were, the proper amendments will be most easily made.

This, I say, my lords, ought to be the conduct of every one who approves of the design of the Bill, and consequently it ought, upon this occasion, to be the conduct of every lord in this House, who really and sincerely wishes to see such a militia established as we may depend on for our defence in time of danger. But even this, which ought to be a general rule, I do not think at all necessary to be insisted on, with respect to the Bill now under our consideration; for I have not heard one objection made to it that to me appears to have the least foundation. I was indeed surprised to hear the learned lord endeavouring to shew, that the Bill is unnecessary: can any one think so who considers the contemptible state in which our militia has been for many years, and the little security we found from it, both in 1715 and 1745, against the confused rabble of disaffected Highlanders? Would not the danger we were at both these times exposed to, have enforced a due execution of the laws in being, if it had been thought possible thereby to render our militia serviceable? As the learned lord has so long, and so deservedly, had a great influence in his majesty's councils, and a great share in the executive part of our government, can we do him so much injustice as to imagine, that he would not have advised and enforced a due execution of our laws, had he thought that our militia could thereby have been rendered of any use.

It is therefore plain, my lords, that some new law must be necessary for regulating our militia; and as it is generally easier and more eligible to build a new house, than to repair and make additions to an old one, I believe it is generally the same with respect to laws. I shall grant that the amendment proposed by the learned lord to the law of Henry 8, might be of some service: it might render our common men better acquainted with fire-arms, and better marksmen, than they are at present: but would it teach them the exercise of the fire-lock? Would it teach them to form in rank and file, or in battalion, and to alter their disposition without confusion, as often as it might become necessary from the circumstances of a march or an engagement? This amendment would therefore of itself have little effect; and besides, it would be attended with a greater expence than most masters of families would like to be at. The use of the bow and arrow required nothing but the first cost; but the use of the musket, besides the first cost, would require a continual expence of powder and ball; consequently I must think, there is no way of making our people accustom themselves to fire arms, and learn to be good marksmen, but the method proposed by this Bill; which is to set up butts, and to provide powder and ball, and prizes, at the public expence, for the militia-men to contend for by shooting at a mark.

This, my lords, with their meeting every Sunday, to go through their military exercise, would raise such an emulation among all ranks of men, that, I am persuaded, nothing that can be proposed by a public law, could contribute more towards raising a martial spirit in our people, or towards introducing that fashion, to which the learned lord was pleased to allow the most desirable effect, and without which he insisted, that every law for regulating our militia would be ridiculous. I shall, indeed, concur with him in opinion, that no fashion can be established in any country, unless it be practised by the rich and great; but there are in all countries fashionable virtues as well as fashionable vices, and the former have often been introduced and established by laws proper for the purpose: nay, the former have sometimes been first introduced by the very lowest rank of people, which, we know, was the case with respect to the Christian as well as to the Protestant religion; for if any virtue once becomes general among the lower rank of people, the rich and great will be induced by their ambition to practise it, and this must have a greater effect in this country, by the nature of our constitution, than in most others, because of the dependance which the rich and great have upon the lower rank of people with respect to elections. If we could once establish a true martial spirit, and render it general, even among the inferior rank of our people, the rich and great would be obliged to shew, that they were actuated by the same spirit, in order to have an influence at any election,

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and he would always be the most successful candidate, who had shewn himself to be the best and bravest officer. This was the case among the Romans, whilst the body of the people continued to be actuated by a true and martial spirit, and their wars were carried on by armies raised, as occasion offered, from the body of the people, or what we may very properly call their militia: from hence we so often read in their history, that the candidates for popular favour endeavoured to succeed by exposing their honourable scars to the view of the people: but when, by keeping up standing mercenary armies, they had extinguished that martial spirit by which the body of the people had so long been actuated, the sordid methods of bribery and corruption began to prevail at all their elections, and the rich and great among them not being any longer under a necessity to practise the military virtues, they thought only of shewing their purses, instead of their scars, the consequence of which was, as it always will be, a most abandoned and most abject slavery.

My lords, to prevent this fatal consequence and to revive a martial spirit among all ranks of men in this nation, is the chief design of this Bill. If we can render this spirit general among the lower sorts of people, I make not the least doubt of its prevailing soon among the rich and great, because, let a man's rank or fortune be what it will, he can then no way recommend himself to the notice of our government, but by gaining the character of being a brave and expert soldier; when this comes to be the case, no gentleman will serve by substitute in our militia, if it be possible for him to give his personal attendance, so that we have no reason to fear our militia's consisting of none but those of the very lowest rank amongst us; for on the contrary, I believe, the master will often serve in the room of his servant: but supposing that a labouring man or mechanic should be obliged to attend in person the militia service, I cannot comprehend why his spending a part of the Sunday or holiday in military exercises, should have a worse effect upon his industry, than his spending the whole of it in idleness or drunkenness; and if all our men of property were bred to arms and taught military discipline, we could never be in any danger from a seditious insurrection among those of no property, even supposing they should possess themselves of the arms provided for the militia. If any such thing should ever happen, they would have the same fate with the followers of Wat Tyler and Jack Cade; for we have no example of a government having been overturned by such an insurrection, but in countries where absolute power was established and supported by a standing mercenary army.

But now, my lords, supposing that the law should upon trial be found not to answer all the good ends intended by it, we should from that trial be able to judge wherein it was deficient, and by what means those deficiencies might be supplied. This, surely, is a knowledge we can never acquire, if we never pass any militia Bill; and if we ever do pass any such Bill, it is a knowledge which, I believe, we shall have occasion for, let that Bill be never so perfect. The acquiring or making a proper use of such knowledge can never derogate from our character among the people; for though the parliament be called the wisdom of the nation, I do not know that we ever pretended to be infallible, or desired that any man in the nation should think so. Every human assembly must be subject to human weakness, consequently must be liable to mistakes or oversights, and therefore the only thing they can do is to rectify their mistakes or oversights as soon as by experience they have discovered them. We could not therefore suffer in our character by passing this Bill, were it more imperfect than it has been represented to be, even by those who oppose it. But when a well regulated and well disciplined militia appears to be so necessary for our defence, when the establishing of such a militia is so universally called for by all ranks of men in the kingdom, I tremble to think of the consequences that may ensue from our rejecting the Bill now before us. Our having so long neglected to pass any law for establishing a well regulated and well disciplined militia, can no way add to our character for wisdom, either at home or abroad: I am afraid it will confirm what foreigners have often said of us, that no new law in this country is ever owing to our foresight, but our feeling. But if we pass no new law for the purpose, now that we have so sensibly felt, and so dearly paid for the want of such a militia, what will every man abroad, what will every man without doors at home, say of the wisdom of the British nation?

My lords, I hope I have now answered all the general objections made by the

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learned lord against the Bill under our consideration, and as to the objections against the particular clauses, they are really, in my opinion, so trifling, that I am ashamed to take up your lordships' time with making an answer to any of them. If a man chosen by lot to serve in the militia should, by any accident, be prevented from appearing, according to his summons, before the deputy-lieutenants and commissioners of the land-tax, he would certainly be excused upon his appearing at the next meeting, and entered from that time into the militia service. But if, during the whole three years, he should never once appear, he would as certainly, in that case, become liable to the penalty of 10*l.* inflicted by the express words of the Bill, upon a man's neglecting or refusing to take the oaths and serve in the militia, or provide a substitute: for I must observe, that this 10*l.* is not to be forfeited till after the expiration of the three years, from the time of his first neglecting to appear and take the oaths.

Then, my lords, as to the oaths prescribed by this Bill, I must think that every one of them is absolutely necessary: the oath to be taken by the officers, as to their qualification, is to prevent men of no fortune from thrusting themselves into such commissions, contrary to the intent of the Bill, which is, that none but men of fortune shall have the command of our militia, and every one must allow that it is a right intention. And as to the oaths to be administered upon trials before justices of the peace, the offences to be there tried and punished are, it is true, but trivial; but I hope it will always be thought, that no free subject of this kingdom is ever to be subjected to any penalty or punishment without an accusation and conviction upon oath. I am very sensible that oaths are often, by our laws, very inconsiderately imposed, and generally very indecently administered; but the imposition of oaths can never be apt to occasion perjury, except when they are imposed in cases where a man may by self-interest be tempted to swear falsely, which can never be the case with respect to any of the little offences to be punished by this Bill, as the informer or witness is in no case to have any share of the penalty, or any other sort of reward for his information or evidence; and besides, the offences to be thus punished are of such a nature, that their having been committed, or no, must be known to many, so that a false accusation could never escape being detected and punished.

In short, my lords, the objections that have been made, and, in my opinion, all that can be made, are so trifling, that whatever some lords amongst us may profess, the people without will, from our rejecting this Bill, conclude that the majority of this assembly are against the nation's ever having a well regulated and well disciplined militia, and consequently that we are for loading them continually with the maintenance of a more numerous mercenary army than we have at present, because of the emoluments which many of us reap, and must always reap, from our having commissions in that army; and how this may affect the character of this hitherto august and respectable assembly it is very easy to judge, so easy, that if I had very material objections against the Bill, I should nevertheless be for its being passed into a law, because I know that all such objections might be removed by a new Bill to be passed the very next ensuing session.

Lord *Sandys:*

My lords; the notice that has been taken in this debate of the many taxes we are now loaded with, and the multitude of laws that have been made for imposing them, or for enforcing the payment and regulating the collection of them, could not but make me reflect upon a duty incumbent upon every one that has the honour of a seat in this assembly: the duty I mean, is to take care that the public shall never be burthened with any unnecessary expence, or for any purpose that can be of no real benefit to the nation. This duty we ought always to attend to, but more particularly upon the present occasion; for this Bill, if passed into a law, will occasion a very great expence to the public, as well as to almost every man in the nation; therefore before we pass it into a law, we should seriously and deliberately consider, whether that expence be necessary, and whether the purpose for which it is intended can be of any real benefit to the nation; and I confess I cannot satisfy myself as to either of these particulars. If a serviceable militia could be formed by a due execution of the militia act now subsisting, we have certainly no occasion for loading the public or the people with a new expence, or our statute book with a new act for that purpose; and if a serviceable militia cannot be formed by

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a due execution of the act now subsisting, I am of opinion, that no such militia can ever be formed by the law now proposed to be enacted; for the chief difference between them seems to me to be, that by a due execution of the old act we might have a militia of 100,000 foot and 10,000 horse at least, whereas by the law now proposed our militia could never amount to above 63 or 64,000 foot, without so much as one troop of horse, which is, I think, a very great defect in what is now proposed, especially as infantry not absolutely masters of the most exact discipline could not be supposed to stand against a brisk attack from a body of cavalry.

My lords, by the law now in being, his majesty may issue commissions of lieutenantcy for every county, city, or place in England: those commissioners may appoint colonels, majors, captains, and other officers; and those officers may exercise the militia men. What more can his majesty do in this respect by the law now proposed? Nay, in this respect the old law has the advantage; for by the Bill now before us, the power of the crown is so circumscribed, that in most places, I believe, it will be impossible to find a sufficient number of officers qualified as the Bill directs. Then with respect to the exercise, single companies are by the old law drawn out and trained four times a year, and general musters made once a year, or as often as the king in council shall specially direct; so that in a time of danger, the king may order the training and mustering both of companies and regiments, and even of the whole militia of the county, as often as he pleases, without any militiaman's receiving any pay from the public, or even from the man for whom he serves, except only for the days he is employed in exercise, or travelling to the place of muster. Whereas, by this Bill, a whole company is never to meet, in most country places, to be trained and exercised, but once a year, nor can the king upon the approach of any danger, order them to meet oftener, unless he, at the same time, orders both the officers and private men into the immediate pay of the public, at the same rate with his other troops.

With regard, therefore, to the forming of a serviceable militia, I must think, that the act now subsisting would, if duly carried into execution, be more effectual than the law now proposed; and, as to the expence, the former is by far the most preferable, because, by the law now in being, the whole of the expence must always fall upon those that have some considerable property, and consequently are able to bear it; whereas by the law now proposed the expence will fall chiefly upon the public, which, under its present load of debt, is very little able to bear it: I say chiefly, for besides the expence to the public, every man who does not serve in person, must be at the expence of hiring one to serve for him, because, I believe no man who serves as a substitute will be satisfied with what may be allowed him by the public: what that allowance is to be, or how our militia-men are to be provided with arms, I cannot comprehend, for there is no provision made for either by the Bill now before us; and yet a provision for both seems to be absolutely necessary, as by this Bill the very poorest sort of our people are, in their turn, to serve in the militia; and such men surely must be provided with arms and accoutrements at the public expence, for it would be impossible for them to provide themselves. It would even be absolutely necessary to give them some sort of pay or reward; for it would be cruel to oblige a man who has laboured hard for six days of the week, to travel 12 miles on the Sunday, and to continue four or five hours at his military exercises, without any pay or reward. In this, likewise, the old law has an advantage of what is now proposed, for by that law none are to be charged with the militia service, but such as can provide arms and accoutrements for themselves, or for such as they employ to serve, and none but such as cannot be supposed to have laboured hard any one day of the week; and the pay which they are to allow to such as they employ to serve is settled in the body of the act itself.

Another advantage, my lords, which the militia law now subsisting has over that which is proposed, is an advantage which very much deserves our consideration; I mean that of arming, and propagating a warlike spirit among the people. It is certain that nothing so much propagates a warlike spirit among the people of any country as their being possessed of arms, and often handling and making use of them. By the law now in being, every man of 50*l.* a year, or upwards, is obliged to have of his own, and in his own possession, one or more stand of arms, in proportion to the number of men he is charged with in the militia; but by the law now

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proposed no man in the kingdom is to be obliged to have either gun, bayonet, or sword of his own, nor is any man to have the possession and use of the arms to be provided by the public, but only on the days of exercise; therefore this Bill may be justly called a Bill for establishing a popular militia by disarming the people; and how a man is to learn the exercise of the fire-lock, who is never to handle a fire-lock but for four or five hours of a Sunday, or how a man is to learn to form in battalion, that is never to see a battalion, or so much as a whole company formed, but once a year, I leave to your lordships to judge.

Thus, my lords, it is to me evident that if a serviceable militia cannot be formed by the law now subsisting, no such militia can ever be formed by the law proposed; and as near 100 years experience has convinced us that no such militia can be formed by the law subsisting, I must think it ridiculous to hope that such a militia can ever be formed by the law proposed; consequently I must think it inconsistent with our duty to load the public with a very considerable expence, that so evidently appears to be for a purpose, from whence the nation can never reap any real benefit. I know it may be said, that the reason why we have never had a regular serviceable militia formed by means of the law subsisting is, because the executive power of our government have always neglected to carry it into execution, and that this neglect has been owing to the design they have always had of keeping up, even in time of peace, a standing army of regular troops, which they knew the parliament would never consent to, should we be provided with such a well regulated, well disciplined militia as we might depend on for our defence, against invasions from abroad as well as insurrections at home. But if this has been the case with respect to the old laws, may it not be the case with respect to the new? It certainly may, as the crown is, by the Bill now before us, to have not only the nomination of all the lieutenants, deputy lieutenants, commissioned officers, and staff-officers, but also the displacing of them, and appointing others in their stead, whenever it shall please the crown, that is to say the ministers of the crown, to do so. Some share of this power is, I know, to be lodged in the lords lieutenants, but as the crown has the absolute power of naming, continuing, or removing them, we cannot suppose that any lord lieutenant will be continued who refuses to obey the instructions he receives from the ministers of the crown, therefore the whole of this power will be ultimately lodged in the crown, and the crown may appoint such lieutenants and officers as will, by private instructions, neglect the training and exercising of the militia-men as much in time to come as it has been in time past.

If this neglect, therefore, has been the only reason of our disappointment under the old law, we may expect to meet with the same disappointment under the new. But the truth is, I believe, that this neglect was not the reason of our disappointment, or at least the reason assigned was not the reason of this neglect: the true reason was, I believe, that all gentlemen who understood the military, saw that it was impossible to discipline a militia so as to make them fit for service, without calling them out to exercise in half companies, whole companies, battalions and brigades, much oftener than could be done by that law. And that this was the chief, if not the only reason of our government's never attempting to carry that law into execution, I am convinced, from what I have been informed of by every officer I have ever talked with upon the head of military discipline. The art of war is now carried to such a height, that even that part of it which belongs to a common soldier, is not to be learned without frequent and long practice. Nay, all the officers I have conversed with assure me, that it is impossible for a man who is to depend upon his daily labour for his subsistence, to spare so much time for exercise, as may qualify him to serve in a regular and well disciplined militia; and therefore I am of opinion, that it is ridiculous to think of ever being able to form a serviceable militia which is to consist chiefly of such men. A gentleman who lives upon the yearly income from his estate, or even a farmer or master tradesman, in short every man who is not obliged to earn his bread, by what we call hard labour, may spare an hour or two every day, or every other day, to practise the exercise of the fire-lock, in company with some of his neighbours; and such men may likewise spare many days in a year, to meet in companies, battalions, and brigades, in order to learn how to form them with quickness and without confusion, and how to perform the several military evolutions now practised, or that may hereafter be practised.

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If you can, by any means, prevail upon such men to agree to do this, and to be fond or proud of doing it with dexterity, you may soon have a brave and serviceable militia, without any expence to the public; and, unless you can do this, I despair of our being ever able to form such a militia as we may depend on against foreign veterans. But for doing this, my lords, I think the Bill now before us is so far from being properly calculated, that it will produce the quite contrary effect: it will make every man of property ashamed of the militia service: no gentleman would chuse to be drawn up in a company or battalion behind his footman, and yet this he must be, if the footman be the taller man of the two. The consequence, therefore, must be, that every man of property who happens to be chosen by lot, will pick up some loose, abandoned fellow to serve as his substitute; and of such only all the common men of our modern militia will always consist.

My lords, I shall grant that there must always be too many of such sort of men in our standing army, but there the officers have, by the military law, power enough to hold them to their duty, and to prevent their being riotous or seditious; whereas, in this modern militia, the officers will not have power sufficient to make such fellows learn their exercise, or to prevent their often becoming riotous and seditious. Therefore I must think, that by such a militia our domestic tranquillity is more liable to be disturbed than preserved; and if such a militia should ever, by the care and vigilance of an ambitious prince, be rendered fit for service, it would be of the most dangerous consequence to our liberties, because it would be a standing army kept up by a standing law, and without the annual consent of parliament. How such a prince would use such an army we may easily judge; for if the common men consisted of none but the poorest and most abandoned part of the people, noblemen, or gentlemen of incumbered fortunes, might be found in each county to command them, who would be as subservient to the sovereign's commands as any soldier of fortune can be supposed to be; or if such could not be found, can we suppose that such common men would enquire, whether the officers appointed over them were men of fortune or no, especially after their being drawn out, and put into constant pay? Or that they would enquire, whether the occasion of their being drawn out had been communicated to parliament? This restriction therefore could never be of any use under a bad prince, and would always be dangerous under a good one, as it might put it out of his power to draw out the militia in time enough to put a stop to an unforeseen invasion or sudden insurrection.

My lords, these apprehensions of mine are far from being chimerical; for they are confirmed by the practice and history of all states that have once enjoyed freedom, and afterwards sunk into slavery. No free state ever at first trusted the arms of the commonwealth in the hands of the poor and indigent; and every one of those we read of in history, lost their liberties soon after they began to do so. The regulation made by Servius Tullius, the sixth king of Rome, and long observed in that commonwealth, is well worth our most serious attention upon this occasion. That wise king divided the citizens of Rome into six different classes, the first of which consisted of those that were worth 100,000 pounds weight of brass, the only metal of which their current coin then, and for many years after, consisted: the second class consisted of those that were worth under 100,000, and not under 75,000 pounds weight of the same metal: the third, of those who were worth under 75,000, and not under 50,000 pounds: the fourth, of those who were worth under 50,000, and not under 25,000: the fifth class of those who were worth under 25,000, and not under 11,000; and the sixth comprehended all those who had no estate, or whose effects did not amount to this last sum. Now what was then the proportion between the price of brass and silver, cannot, I believe, be easily ascertained; but according to the present proportion between our copper and silver-money, a pound weight of copper is worth 18*d.* in silver; consequently, by this regulation, all the citizens of Rome who had no estate, or whose estate or effects did not amount to 825*l.* sterling, were to be ranked in the lowest class; and with respect to the militia, all those of that class were, as the historian says, 'immunes militia,' that is to say, they were not admitted to the honour of being of the militia of their country. Even those who were of the fifth class, were not to be incorporated into their legions, but only attended them with missile weapons, as our archers formerly did our men at arms; and each of the other four classes were

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distinguished by their arms, among whom the first had the best arms, either for offence or defence, and consequently were most depended on.

My lords, after having so fully shewn that this Bill must either be insignificant or dangerous, I think I need not be at the pains to shew any of the inaccuracies in the several clauses; but one of them I cannot well pass over in silence, because it is an absolute inconsistency. In one and the same clause of the Bill it is enacted, That each company shall consist of 80 men besides officers, that every fourth Sunday they shall be exercised in half companies at least, and that no man shall be obliged to travel from home above six miles to perform his exercise on Sundays. Now it is certain, that, in many parts of the country, it will be impossible to bring 40 militia men together, without obliging some of them to travel above six miles from home; so that this Bill will, in many places, be found absolutely inexecutable. As this is such a glaring inconsistency I shall add no more, because this alone I must think sufficient for excusing my being against passing this Bill into a law.

Earl *Temple:*

My lords; from the whispers I heard without doors, I did, indeed, expect an opposition to this Bill; but I expected, and it was natural to expect, that arguments would have been made use of against it, of a sort very different from those I have heard in this debate: I expected, that an attempt would have been made to shew, that a country, such as this, has no occasion for any military force at land, either for quelling insurrections, or even for repelling invasions; or that an attempt would have been made to prove, that we may always keep up such a numerous army of national mercenaries as will be sufficient for this purpose, without any danger to our liberties; and that we may easily spare the expence necessary for maintaining them: or, thirdly, that an attempt would have been made to demonstrate to us, that we may always depend upon foreign mercenaries for this purpose, as often as we can have occasion for them, without any danger of our being treated by these foreign auxiliaries, as our ancestors, the Britons, were by their Saxon auxiliaries; and that the expence of importing and exporting those auxiliaries, and maintaining them while here, will be less than that which we must necessarily be at for supporting any sort of national militia.

These, my lords, were the arguments I expected to have heard; but as the evidence of facts and even of common sense itself, was so plain and so strong against every one of them, I must allow, that the noble lords who have thought fit to oppose this Bill, were in the right not to make use of any such arguments in support of their opposition; and as they neither have, nor could to any purpose have made use of any of them, I must take it for granted, that we either must have a militia, or we must remain liable to be conquered by any foreign army that shall happen to land in this island, provided it be so numerous as to be able to encounter and defeat the small number of national mercenaries we can keep in constant pay. This, then, is a necessary alternative, and yet notwithstanding the dismal prospect we are presented with by one side of this alternative, those who oppose this Bill have been so cruel, as to endeavour to persuade us, that the other side is impracticable. They have endeavoured to shew that, if such a militia as we can depend on for our defence against foreign veterans, cannot be established by the militia law now in being, no such militia can be established by any law we can contrive: next, they have endeavoured to shew, that were it possible to establish such a militia, it would be of the most dangerous consequences to our liberties; and, thirdly, they have endeavoured to shew, that the experiment would be so expensive, that it is not worth the nation's while to make it. Such doctrines must be terrible to every true Englishman who considers the alternative I have mentioned; and therefore for the comfort of my countrymen, as well as for the sake of the Bill now before us, I shall endeavour to shew, that every one of them is void of any foundation, either in the nature of things, or in the present circumstances of the people of this nation.

My lords; in order to do this I must begin with a short examination of the militia act we have now subsisting, and with respect to it I must grant that, if due care had been taken to carry that law into execution, our militia might always have been upon a much better footing than they are at present, but what prevented the due execution of that law is now at an end. When that law was passed, and for many years after, the dispute still subsisted among the people, though determined by

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the legislature, about the power of the crown over the militia, which dispute had been one of the causes of the civil war in the reign of Charles the 1st, and the maxim likewise subsisted, that the keeping up of any number of mercenary troops in time of peace, was so inconsistent with our constitution, that the parliament ought never to consent to it. Whilst such a dispute and such a maxim prevailed, we cannot wonder at the crown's neglecting the militia, in order to render the keeping up of a standing army necessary. But now, I believe, no man disputes the power which the crown ought to have over the militia; nor is any man so wrongheaded as to think, that we ought not always to have, even in time of peace, with consent of parliament, such a number of regular troops as may be necessary for preserving our internal tranquillity, and for opposing any sudden invasion as may be made with a small number of troops. A well disciplined militia, can, therefore, now no way interfere with the power or safety of the crown, but on the contrary will be an addition to both, and consequently we may expect that, if a proper law be passed for establishing a well disciplined militia, the crown will take all possible care for carrying it duly into execution.

But, my lords, with respect to the law now subsisting, it is scarcely possible for the crown to cause it to be carried duly into execution. The intention of the law certainly is, that none but gentlemen of character and fortune shall be appointed officers in the militia; but as the lord lieutenant in each county has an unlimited power to appoint whomsoever he pleases, it is not possible for the crown to prevent the appointing of some men of low rank and fortune, and when any one such is appointed, gentlemen of superior rank and fortune disdain to serve with such officers, and refuse to accept of, or throw up the commissions they have accepted; by which means all the commissions in our militia have come at last to be generally in the hands of men of low rank, and little or no fortune. This is one of the chief causes that has brought our present militia into such contempt: and another is, a defect or omission in the act itself; for no provision is therein made for continuing any foot soldier in the service for such a time as may make him any way master of his business; and the horse militia provided by that act is ridiculous; for there is no obligation upon any man to furnish such a horse as is trained to the service, without which no cavalry can be of any use, but must occasion confusion wherever they are. The advisers of the Bill now before us were therefore, I think, in the right not to provide for any horse militia; for such a one is indeed impossible, unless you established a riding house in every division; and, indeed, in a country so much inclosed as this is, there is no great occasion for cavalry; for a body of infantry may always, by means of our inclosures, prevent their being liable to be attacked by cavalry; and for securing a distant pass, a body of infantry may be mounted on horseback when great expedition is necessary.

My lords; I could mention many other facts in the militia laws now subsisting, every one of which, as well as those I have mentioned, are provided for by the Bill before us; therefore, from the bad success of the militia laws now subsisting, we are not to conclude, that it is impossible to contrive any effectual law for establishing a well disciplined and serviceable militia. A life of idleness, or of continual military exercise, was never judged to be necessary for forming a well disciplined soldier, even in the most regular armies. On the contrary a course of idleness is, by all eminent writers upon the art military, declared to be of the utmost bad consequence to an army, even though it be in a time of profound peace. Therefore, I must think, that a man who labours hard for six days of the week, and spends great part of the seventh in military exercises, is more likely to make a good soldier, than a man who employs great part of two, or even three days of the week, in military exercises, and spends all the rest in idleness and drunkenness; and surely, the former may, in three years time, learn as much of the military art, as is necessary for a common soldier; for I must observe, that a common soldier has nothing to do with drawing up in battalion, or brigade, or with any of the evolutions now practised, all of these being the proper province of the officers only.

But suppose, my lords, that our militia officers, after three or more years service, are a little deficient in their knowledge how to form in battalion, or brigade, how to double their files, how to form the hollow square, or how to perform any of the other operations usual in war; and suppose, that our militia men are not quite so dexterous as they ought to be in the manage-

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ment of the musket and bayonet; yet let us consider, that to prepare to invade this kingdom with an army superior to that we always keep on foot, or even to that part of it which we always keep in or near London, must require a great many weeks, if not months: such a preparation we shall always have notice of, if we are not infatuated, at least four or five weeks before it can be finished: upon the first notice of it, we must suppose, that our sovereign will order the militia of some of the counties at least to be drawn out: from the time they are drawn out they may be exercised every day; and by such daily exercise they may in three or four weeks be fully instructed, and made complete masters of every part of military knowledge, in which they were before deficient, so as to be equal in knowledge and dexterity with any mercenary troops whatever; and as most of our militia will always have some stake to fight for, we may reasonably suppose, that they will exceed them in courage and resolution. The militia of those counties alone which lie upon the south-east, south, and south-west coasts of this island, amount to above 20,000 men, according to what is proposed by the Bill now before us: if we had last winter had such a militia established, well disciplined, and ready to be drawn out upon the first notice, I believe, the French would not so much as have pretended a design to invade us, for that they really had such a design I very much doubt. But they would not so much as have pretended it, because it could not have given us any alarm, or suspended the execution of any other warlike measure we had resolved on, as with the additions we had made to our army, we could have met them in a few days after their landing, with an army of regulars and militia much superior to any they could possibly embark; and I must here observe, that if such a Bill as this had been passed into a law 20 years ago, much greater and more formidable additions might have been made to our regular army.

My lords, this consideration alone should make us pass the Bill now before us. Even supposing that the militia to be established by this Bill could not be made fit to encounter foreign veterans, yet it will certainly enable us with more ease to augment our army, and the additional troops or men will be sooner fit for service. In 20 or 30 years all the common men in the kingdom, that is to say, all such as cannot afford to give any thing to a man to serve for them, will have passed what I may call a three years apprenticeship in the militia. Surely, a man who has passed such an apprenticeship will be more ready to list in the army, than a man who never smelt powder in his life; and a man who has for three years been drawing up in rank and file, and performing all the manual exercise of the musket and bayonet almost every Sunday, will be sooner, after listing, made fit for service in the army, than a man who never heard of the terms rank and file, nor ever handled a musket or bayonet before his listing in that service. Nay, I have heard from old serjeants in our army, that they have often been some days before they could inspire a country looby with courage enough to present and fire his musket; and yet that very man has afterwards become a good and a brave soldier.

My lords, the passing of this Bill into a law must therefore be of eminent service to our regular army, and must render it much more formidable when we have occasion to make great additions to it upon any sudden emergency; and this alone should make us despise the small expence which the nation, or any private man may thereby be put to; for it is proposed, that the public should be at some expence in providing arms, and likewise in granting some reward to those that do serve, and will accept of it, which expence must be provided for by a new Bill to be passed next session, as it could not be provided for in this, because if it had, we could have made no amendment to it. This was not, therefore, an oversight, but an omission designed, in order to leave room for such amendments as we might think proper, and consequently those lords who now object to the form of the Bill, are the more to blame for not offering those objections upon the second reading, or in the committee, when their objections might have been all removed by amendments, or at least such of them as had been thought material, which to me, indeed, none of them seem to be.

This, my lords, is the true reason why no provision was made in the Bill for the expence that must attend the militia proposed by it; and when that expence comes to be considered, I am sure it will appear to be a mere trifle, especially when compared with the expence which experience has taught us we must otherwise be at, for preventing an insolent and en-

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croaching neighbour's threatening us, at every turn, with an invasion; for this can no otherwise be done, but by keeping up a much more numerous army than we ever did heretofore; or by calling in a large body of foreign auxiliaries, as often as that neighbour may please to canton a considerable body of troops upon the coast opposite to this island; both which would be attended, not only with an insupportable expence, but with the greatest danger to our constitution and liberties; and this leads me to consider that danger which, it is pretended, our liberties may be exposed to, by the militia proposed by this Bill.

My lords, to find a foundation for this pretended danger, it is supposed that all the men of property in this nation are absolutely void of public spirit, and without any intention or desire of ever assisting in the defence of their country, should it ever happen to be brought into danger, and consequently, that no man of any property will serve personally in this militia, but will hire some low abandoned fellow to serve as his substitute, by which means our militia will soon come to consist of 60,000 poor low fellows, who will make a trade of serving for others, and who will be the only men that are to be disciplined by this act. Now, my lords, if I could suppose that all the men of property in this nation are so void of any regard for the honour, happiness, or security of their country, I should give myself very little trouble about the liberty they enjoy, because I should be of opinion, that they neither deserved it, nor would it be possible to preserve it. A man that will not fight for his liberty, I am sure, does not deserve it, and a man who is no way qualified, cannot fight for it if he would. But I have, thank God! a better opinion of my countrymen, and therefore I expect, that if this Bill be passed into a law, we shall soon see every young man of property in this kingdom serving his term in the militia, and impatient for its coming to his turn, perhaps all of them making interest with such of their seniors as happen to be chosen by lot, for leave to serve as their substitutes.

But suppose, my lords, I should be disappointed in this pleasing expectation: suppose our men of property, both young and old, should all, or most of them, choose to serve by substitute, yet the whole of the supposition on the other side is impossible. The military discipline would indeed be confined to the poor, but then it must necessarily extend to all, or most of the poor in the kingdom. For illustrating this I shall first suppose, that the reward to be given by the public is to be so small that no man will serve for another, without some additional reward from him for whom he serves: in this case all the poor men in the kingdom must serve in person because they could not spare to hire any to serve for them. And next I shall suppose, that the reward to be given by the public is to be so high, as of itself to be sufficient to make a poor man fond of serving for any man chosen by lot to serve, in order to entitle himself to the public reward: does not every one see that in this case all the poor, who are chosen by lot, will serve personally; and that the rich, who are chosen by lot, will give this profitable employment to such poor men as they like best, as we must suppose that every rich man will have several poor men applying to him for the favour.

Thus, my lords, it is evident, that the military discipline would not be confined to any certain number of poor men, but would extend to all or most of the poor men in the kingdom, that might be fit for service; and if our government should at any time attempt to make use of the poor militia men then in service, for overturning our liberties, all the poor men who had been in service, and who would of course be equally masters of military discipline, would unite under the command of some ambitious rich men who had formerly been officers against such a government. In such a case, I shall grant, that our liberties would be in danger, which ever side prevailed; but the contest would probably be determined against the government, as it was in the reign of Charles the first, and this probability will always deter our government, for the time being, if it has a grain of wisdom, from making the attempt.

My lords, the danger of this attempt will always, therefore, be one strong bar against it, and the impracticability of the scheme will be another; for it is of such a nature that it cannot be executed by degrees: it must be executed all at once: the qualified deputy lieutenants and militia officers must at once be removed, and unqualified men put into their room; and at the same time a stop must be put to the meeting of parliament, and to the sitting of any of the courts in Westminster-hall; because, if any of the latter should be al-

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lowed to sit, prosecutions would immediately be set on foot against every unqualified man, who had accepted and began to act as deputy lieutenant or officer in the militia, for recovering the penalties thereby incurred, one moiety of which is by this Bill to belong to the prosecutor. And as the militia is not by the Bill to be drawn out, until after the occasion for doing so has been communicated to parliament, this will be a third bar to any such attempt; because the drawing out of this militia, without any such communication, would give an immediate alarum to the whole nation, and set every man, not engaged in the plot, upon providing for his defence. Nor can the necessity of this communication ever be of any bad consequence, because an insurrection, or invasion, which may be easily prevented or defeated by our standing army, can never occasion the drawing out of the militia; and a more formidable insurrection or invasion, can never be so sudden, or unforeseen, as not to give time for the meeting of parliament.

My lords, I hope I have shewn, that it is possible to establish a well disciplined and serviceable militia, even by the Bill now before us; that the expence will be but a mere trifle in comparison with the expence we must be put to, by any other method of providing for our security, and that the militia, proposed by this Bill, can never be of any dangerous consequence to our constitution or liberties. But, my lords, when we talk of danger, let us consider the danger of rejecting this Bill. By dear bought experience the whole nation is now become sensible of the necessity of our having such a militia established. By the want of such a militia we have been prevented from sending such succours to our countrymen in America, as we ought to have done: at least this will, I know, be pretended as an excuse for our fatal neglect: by the want of it, we have been obliged to bring over a body of German troops: and by the want of it we have been obliged to petition his majesty to bring over a body of his electoral troops. If this Bill should be rejected, what will be said without doors? Will it not be said, that there is a party in this House who are for continuing us in the same weak and unarmed condition, on purpose that we may be obliged, as often as we are in danger, real or chimerical, to bring over and maintain a body of German or electoral troops? And if this opinion should prevail among the people, may it not be of the most dangerous consequence to our present happy establishment, and to the illustrious family now upon our throne? It certainly will; for the Jacobites will industriously ascribe this design chiefly to our sovereign; and as the principal opposers of the Bill are known to be in high favour with his majesty, this unjust imputation will, I fear, gain too much credit among the people without doors. Therefore, if the objections to the form of this Bill were much more material than they really are, out of regard to our present happy establishment, and to the royal family now upon our throne, we should be cautious of rejecting it at such a critical conjuncture.

I shall now conclude, my lords; but lest what has been mentioned from the Roman history should have more weight than it ought to have, I must beg leave to make some remarks upon that part of their history, which I could not miss looking into upon this occasion. During their monarchy, and for some years after the establishment of their common-wealth, their armies could consist of none but men of some property, because they gave neither pay nor subsistence to their soldiers, no not even in time of war; for Livy expressly tells us, that the first time they gave any pay to their soldiers, was after the siege and demolition of the rich city of Anxur, which happened in the 349th year after the building of the city, and consequently above a 100 years after the establishment of the common-wealth. But after they began to give pay to their soldiers in time of war, they certainly had in their armies freemen of no property, or at least many such as were not worth 11,000 æra, and consequently were of the sixth class instituted by Servius Tullius; for they would not certainly have listed slaves in their army, after buying them at the public expence from their masters, as they did after the battle of Cannæ, if there had been a sufficient number of freemen in the city that were fit for service, and the historian expressly says, that this was occasioned by a scarcity of freemen. As to what the historian means by the word Æs, in his history of Servius Tullius, it is more the business of a critic than mine. It is very true, that the denomination of money, which among the Romans was called Æs, at first meant a pound weight of brass, as our pound sterling at first meant a pound weight of silver; but that word came after-

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wards to mean a denomination of money among them, which did not exceed, in value, our three farthings, and consequently in the division of the people established by Servius Tullius, if this was the historian's meaning, the sixth class of people, who were to be *immunes militia*, consisted of those whose whole substance did not amount to 34*l.* 7*s.* 6*d.* and that this was the historian's meaning I am apt to believe, because it is not probable that, in a city which had not been built much about 200 years, there should be any considerable number of people that were worth 7,500*l.* each, which would have been the case, if the historian had meant by 100,000 æris, 100,000 pound weight of brass, and that brass had been near about the same value it is at present. But as I have already shewn, that the Romans afterwards listed poor freemen as well as rich in their armies, and consequently that among them the poor as well as the rich must have been bred to military discipline, this dispute about the historian's meaning can signify nothing in the present debate, nor can any thing in the Roman history be made an argument against the Bill now before us, which, I hope, will be passed into a law.

The question being put, whether this Bill, with the Amendments, shall pass? It was resolved in the negative by 59 against 23. And the Bill was ordered to be rejected.

*Mr. Speaker Onslow's Speech to the King on presenting the Money Bills.**] May 27. When the Money Bills were presented at the close of the Session,

Mr. Speaker *Onslow* addressed his Majesty as follows:

"May it please your Majesty;

"Your faithful Commons, justly sensible of the blessings they have enjoyed under your happy reign, in just indignation at every attempt to disturb it, have exerted themselves, to the utmost of their abilities, to support your majesty in the just war, which the ambition and perfidy of France have obliged you to enter into, by giving, for the service of this year ordinary and extraordinary, ten millions, beside a vote of credit to answer any unforeseen emergency.

"They beg leave most humbly to say, they hope the sword you have so bravely drawn, and they so effectually supported, will be entrusted only in brave, capable, and honest hands; that so the naval, the natural strength of England, will make a figure, will do service, as much greater, as it is exalted higher than ever before.

"They apprehend, the present critical juncture convinces, that alliances on the continent, as they are unnatural, so they must ever be prejudicial to the true interest of England; that there is no gratitude to be expected from, no dependence to be had on such allies; allies, who though saved, supported, subsisting by the blood and treasure of this kingdom for more than an age, have taken the opportunity of the first prospect of present profit, to break through every tie.

"Not discouraged by the ingratitude of allies, nor the ambition of enemies, they have, with pleasure, beheld the sword drawn to vindicate your honour, the honour and interest of England; convinced, and proud to let all the world see, that England is able to fight her own battles, to stand by her own natural strength, against all her enemies.

"Though ever attached to your majesty's person, ever at ease under your just government, they cannot forbear taking notice of some circumstances in the present situation of affairs, which nothing but the confidence in your justice, your love to the people devoted to you, could hinder from alarming their most serious apprehensions; and to whom should they make their fears known? To whom should they complain, but to their protector, their guardian, and their father?—Subsidies to foreign princes, when already burdened with a debt scarce to be borne, cannot but be severely felt; an army of foreign troops, a thing unprecedented, unheard of, unknown, brought into England, cannot but alarm; but still they depend, still they confide in your majesty, and only beg leave most humbly to say, they hope that their burden may be lightened; their fears removed as soon as possible; and, in the mean time, that the sword of these foreigners should not be entrusted a moment out of your own hand, to any other person whatsoever."

The King's Speech at the Close of the Session.] May 27. His majesty put an end to the session with the following Speech to both Houses:

* From the Gentleman's Magazine.

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" My Lords and Gentlemen;

" After so long and unwearied application to the public business, it is reasonable that I should give you some recess: I must, at the same time, return you my hearty thanks for the vigorous and effectual support you have given me, in maintaining that just and national cause in which I am engaged.

" The injuries and hostilities which have been for some time committed by the French, against my dominions and subjects, are now followed by the actual invasion of the island of Minorca, which stands guaranteed to me by all the great powers in Europe, and in particular by the French king. I have, therefore, found myself obliged, in vindication of the honour of my crown, and of the rights of my people, to declare war in form against France: I rely on the Divine protection, and the vigorous assistance of my faithful subjects, in so just a cause.

" Gentlemen of the House of Commons;

" I return you my hearty thanks for the readiness and dispatch with which you have granted me such large supplies; you may depend on their being strictly applied to the good purposes to which they were given.

" My Lords, and Gentlemen;

" Nothing has given me more inward satisfaction than the confidence which you repose in me: it is the most acceptable return you could make me: and, you may be assured, shall be made use of only for your good: the preservation of your religion, liberties, and independency, is, and always shall be, my great aim, and I trust you will not be wanting to yourselves."

The Parliament was then prorogued to the 18th of June: and was afterwards further prorogued to the 2d of December.

FOURTH SESSION

OF THE

ELEVENTH PARLIAMENT

OF

GREAT BRITAIN.

*The King's Speech on Opening the Session.**] December 2, 1756. The King came to the House of Peers and opened the Session with the following Speech to both Houses:

" My Lords, and Gentlemen,

" I have called you together in a conjuncture which highly requires the deliberation, advice and assistance of parliament; and I trust that (under the guidance of Divine Providence) union and firmness in my affectionate people will carry me with honour through all difficulties; and finally vindicate the dignity of my crown, and its indubitable rights, against the ancient enemy of these kingdoms.

" The succour and preservation of America cannot but constitute a main object of my attention and solicitude; and the growing dangers to which our colonies may stand exposed, from our late losses in those parts, demand resolutions of vigour and dispatch.

" An adequate and firm defence at home must have the chief place in my thoughts; and, in this great view, I have nothing so much at heart, as that no ground of dissatisfaction may remain in my people.

" To this end a national militia, planned and regulated with equal regard to the just rights of my crown and people, may, in time, become one good resource, in case of general danger; and I recommend the framing of such a militia to the care and diligence of my parliament.

" The unnatural union of councils abroad, the calamities which, in consequence of this unhappy conjunction, may, by irruptions of foreign armies into the empire, shake its constitutions, overturn its system, and threaten oppression to the Protestant interest there, are events which must sensibly affect the minds of this nation, and have fixed the eyes of Europe on this new and dangerous crisis.

" The body of my electoral troops, which I ordered hither at the desire of my parliament, I have directed to return to my dominions in Germany; relying with pleasure on the spirit and zeal of my people, in defence of my person and realm.

" Gentlemen of the House of Commons,

" I will order the proper estimates to be laid in due time before you: and I rely on your wisdom, that you will prefer more

* " The change of administration was arranged before the meeting of parliament. The duke of Newcastle, who had so long directed the helm of government, was compelled to retire, and his place filled by William, fourth duke of Devonshire, who inherited the sound sense and integrity, as well as the honours of his father. Notwithstanding the repugnance

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vigorous efforts (though attended with large expense) to a less effectual, and therefore less frugal, plan of war.

"I have placed before you the dangers and necessities of the public; it will be your care to lay in such a manner the burdens you may judge unavoidable, as will least distress and exhaust my people.

"My Lords, and Gentlemen,

"I cannot here be unmindful of the sufferings of the poorer sort, from the present high price of corn, and the disturbances

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of George the 2nd, Mr. Pitt received the seals of secretary of state, on the resignation of Mr. Fox; and his relations, the Grenvilles, were again placed in administration.

"This sudden change was occasioned by a disagreement in the ministry, principally arising from the official jealousy of the duke of Newcastle, and hastened by the clamours of the nation for the ill success of the war.

"The new administration, from which the duke of Newcastle was excluded, was of temporary duration; the king's antipathy to Mr. Pitt was increased by his opposition to the plan of continental warfare, in which he was joined by Mr. Legge. In consequence of his refusal to allow a sum of money not exceeding 100,000*l.* for the German war, the duke of Cumberland declined the command of the army unless Mr. Pitt was removed: he was accordingly dismissed on the 5th of April 1757, together with lord Temple and Mr. Legge. The king made several ineffectual attempts to form new arrangements; and the administration would have experienced the same fluctuation as it had undergone since the death of Mr. Pelham, had not a coalition fortunately taken place between Leicester-house, the duke of Newcastle, Mr. Pitt, and the Tories. This combination was too strong to be resisted; and the king, notwithstanding his repugnance to acquiesce in the dictates of the new court, was compelled to accept a new administration, formed by the union of all parties." Coxe's Memoirs of Horatio Lord Walpole."

"Though the parliament of Great Britain unanimously concurred in strengthening the hands of government for a vigorous prosecution of the war, those liberal supplies had like to have proved ineffectual through a want of harmony in her councils. In the course of the last year the clamorous voice of dissatisfaction had been raised by a series of disappointments and miscarriages, which were imputed to want of intelligence, sagacity, and vigour in the administration. In order to conciliate the goodwill of those whom their conduct had disobliged, to acquire a fresh stock of credit with their fellow-subjects, and remove from their own shoulders part of what future censure might ensue, they admitted into a share of the administration a certain set of gentlemen, remarkable for their talents and popularity, headed by Mr. Pitt and Mr. Legge, esteemed the two most illustrious patriots of Great Britain, alike distinguished and admired for their unconquerable spirit and untainted integrity. The former of these was appointed secretary of state, the other chancellor of the exchequer; and their friends were vested with other honourable though subordinate offices.

"So far the people were charmed with the promotion of individuals, upon whose virtues and abilities they had the most perfect reliance: but these new ingredients would never thoroughly mix with the old leaven. The administration became an emblem of the image that Nebuchadnezzar saw in his dream, the leg was of iron, and the foot was of clay. The old junto found the new associates very unfit for their purposes. They could neither persuade, cajole, nor intimidate them into measures which they thought repugnant to the true interest of their country. The new ministers combated in council every such plan, however patronised: they openly opposed in parliament every design which they deemed unworthy of the crown, or prejudicial to the people, even though distinguished by the predilection of the sovereign. Far from bargaining for their places, and surrendering their principles by capitulation, they maintained in office their independency and candour with the most vigilant circumspection, and seemed determined to show, that he is the best minister to the sovereign who acts with the greatest probity towards the subject. Those who immediately surrounded the throne were supposed to have concealed the true characters of these faithful servants from the knowledge of their royal master; to have represented them as obstinate, imperious, ignorant, and even lukewarm in their loyalty; and to have declared, that with such colleagues it would be impossible to move the machine of government according to his majesty's inclination. These suggestions, artfully inculcated, produced the desired effect: on the 6th of April Mr. Pitt, by his majesty's command, resigned the seals of secretary of state for the southern department. In the room of Mr. Legge, the king was pleased to grant the office of chancellor of the exchequer to the lord Mansfield, chief justice of the court of King's-bench. The fate of Mr. Pitt was extended to some of his principal friends: the board of admiralty was changed, and some other removals were made with the same intention.

"What was intended as a disgrace to Mr. Pitt and Mr. Legge turned out one of the most shining circumstances of their characters. The whole nation seemed to rise up, as one man, in the vindication of their fame: every mouth was opened in their praise; and a great number of respectable cities and corporations presented them with the freedom of their respective societies, enclosed in gold boxes of curious workmanship, as testimonies of their peculiar vene-

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which have arisen therefrom; and I recommend to you to consider of proper provisions for preventing the like mischiefs hereafter.

"Unprosperous events of war in the Mediterranean have drawn from my subjects signal proofs how dearly they tender my honour and that of my crown; and they cannot, on my part, fail to meet with just returns of unwearied care, and unceasing endeavours for the glory, prosperity, and happiness, of my people."

The Lords' Address of Thanks.] His majesty having retired, Earl Gower moved the following Address, which being seconded by Lord Cathcart, was agreed to:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks, for your most gracious Speech from the throne.

"The importance of the present crisis, and the dangerous consequences which may result from the unnatural union of councils in Europe, are so sensibly felt by this House, that we should think ourselves wanting in duty to your majesty and our country, if we did not beg leave to offer at your royal feet our strongest assurances, that we will, to the utmost of our power, promote and effectuate such measures as shall be found expedient for vindicating the honour of your crown, and asserting the just rights of your majesty and your subjects.

"Permit us to return your majesty our most humble and grateful thanks, for your majesty's gracious condescension to the request of your parliament, in causing a body of your electoral troops to come into this country, at a conjuncture so critical to its preservation and defence.

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ration. What the people highly esteem, they in a manner idolize. Not contented with making offerings so flattering and grateful to conscious virtue, they conceived the most violent prejudices against those gentlemen who succeeded in the administration; fully convinced, that the same persons who had sunk the nation in the present distressful circumstances, who had brought on her dishonour, and reduced her to the verge of destruction, were by no means the fit instruments of her delivery and redemption. The whole kingdom caught fire at the late changes; nor could the power, the cunning, and the artifices of a faction, long support it against the united voice of Great Britain, which soon pierced the ears of the sovereign. It was not possible to persuade the people that salutary measures could be suggested or pursued, except by the few, whose zeal for the honour of their country, and steady adherence to an upright disinterested conduct, had secured their confidence, and claimed their veneration. A great number of addresses, dutifully and loyally expressed, solicited the king, ever ready to meet half-way the wishes of his faithful people, to restore Mr. Pitt and Mr. Legge to their former employments. Upon this they rested the security and honour of the nation, as well as the public expectation of the speedy and successful issue of a war, hitherto attended with disgraces and misfortunes. Accordingly, his majesty was graciously pleased to re-deliver the seals to Mr. Pitt, appointing him secretary of state for the southern department, on the 29th of June; and, five days after, the office of chancellor of the exchequer was restored to Mr. Legge: promotions that afforded universal satisfaction.

"It would not, perhaps, be possible to exclude from a share in the administration, all who were not perfectly agreeable to the people: however unpopular the late ministry might appear, still they possessed sufficient influence in the privy council, and credit in the House of Commons, to thwart every measure in which they did not themselves partake. This consideration, and very recent experience, probably dictated the necessity of a coalition, salutary in itself, and prudent, because it was the only means of assuaging the rage of faction, and healing those divisions, more pernicious to the public than the most mistaken and blundering councils. Sir Robert Henley was made lord keeper of the great seal, and sworn of his majesty's privy council, on the 13th of June: the custody of the privy seal was committed to earl Temple: the duke of Newcastle, Mr. Legge, Mr. Nugent, visc. Duncannon, and Mr. Grenville, were appointed commissioners for executing the office of treasurer of his majesty's exchequer: lord Anson, admirals Boscawen and Forbes, Dr. Hay, Mr. West, Mr. Hunter, and Mr. Elliott, to preside at the board of admiralty: Mr. Fox was gratified with the office of receiver and paymaster-general of all his majesty's guards, garrisons, and land-forces; and the earl of Thomond was made treasurer of the king's household, and sworn of his majesty's privy council. Other promotions likewise took place, with a design to gratify the adherents of either party; and so equally was the royal favour distributed, that the utmost harmony for a long time subsisted. Ingredients, seemingly heterogeneous, consolidated into one uniform mass, so as to produce effects far exceeding the most sanguine expectations; and this prudent arrangement proved displeasing only to those whom violent party attachment had inspired with a narrow and exclusive spirit." Smollett.

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"With the deepest sense of our obligations to your majesty, we beg leave to approach your throne, there to offer the tribute of our warmest gratitude, for that paternal care and solicitude which your majesty has expressed for the succour and preservation of America. Nor are we less sensibly affected with your majesty's gracious attention to the safety and honour of this kingdom, by recommending to our care the forming such a plan of defence at home, as may enable your majesty to exert the power of Great Britain with vigour and success abroad.

"The many blessings we enjoy, under your majesty's mild and gracious government, call for the warmest and sincerest acknowledgments of our hearts, and demand on our part, the most firm and loyal assurances to your majesty, that not discouraged by any unprosperous events of war, we will, with the greater ardour and alacrity, employ our most zealous efforts to extricate your majesty from all difficulties, with honour and dignity to your majesty's crown, and prosperity to your people.

"We beg leave to return your majesty the thanks of this House, for the tender and compassionate regard your majesty has shewn to the sufferings of the poorer sort, from the high price of corn; and to assure your majesty, that we will take that matter into our immediate consideration, in order to provide such speedy and adequate relief as the nature and importance of the case require."

The King's Answer.] To which Address the King returned this Answer:

"My Lords,

"I return you my hearty thanks, for this very dutiful and affectionate Address. The warm expressions with which you repeat the assurances of your determination to exert yourselves in the defence of the rights and possessions of my crown give me the greatest satisfaction; and you may be assured, the only use I shall make of the confidence you repose in me, will be to pursue such measures as the present critical conjuncture renders necessary for the welfare and prosperity of my kingdoms."

The Commons' Address of Thanks.] The Commons having returned to their House, Mr. C. Townshend moved the following Address, which was agreed to *nem. con.*

"Most gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Speech from the throne.

"Your faithful Commons, excited by duty, and warm with gratitude, do, from our hearts, acknowledge the paternal care and royal condescension of your majesty, in pointing out from the throne such a plan of force for our defence as may best tend to the satisfaction of your people, and, in particular, a well-modelled national militia, as one proper security for your majesty's person and realm.

"In this present arduous conjuncture, your faithful Commons, next after Divine Providence, rely on your majesty's wisdom and magnanimity, remembering British efforts in times past, under princes whose first glory was to found, like your majesty, the strength of their government in the contentment and harmony of their subjects.

"Thus united, and thus animated, this House will cheerfully support your majesty through all difficulties, and vindicate to the utmost, the dignity of your crown, and its indubitable rights, against the ancient enemy of these kingdoms.

"We trust, your majesty, strong at home, will find yourself revered abroad, and in a condition to support that weight and consideration in Europe which belong to a king of Great Britain, notwithstanding the unnatural and unhappy union of councils which have formed on the continent so new and dangerous a crisis.

"This House thinks with pain on the sad events of war in the Mediterranean and in America; they will take these affecting matters into their most serious consideration, not imputing blame to any unheard; and will, with all confidence, alacrity, and dispatch, second your majesty's royal care for the speedy succour and preservation of America, under the growing dangers to which those invaluable possessions stand exposed.

"We beg leave to assure your majesty, that your faithful Commons will consider of proper provisions for the relief of the poorer sort from the present high price of corn, and for preventing the like mischiefs hereafter, according to the royal and compassionate recommendation of your majesty."

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The King's Answer.] The King returned this Answer:

"Gentlemen,

"I return you my thanks for this dutiful and affectionate Address. Nothing can give me so great satisfaction, or tend so much to the public safety, as union and harmony amongst my subjects. You may rely on my constant care and attention to the welfare of my people."

Complaint in the Lords of a Spurious Paper sold as the King's Speech.] Dec. 3. Complaint was made to the House, of a spurious and forged printed Paper, dispersed and publicly sold as the King's Speech, intituled, "His majesty's most gracious Speech to both Houses of Parliament, on Thursday the 2nd of December, 1756; London, printed by T. Beskett, and by the assigns of R. Beskett, printer to his majesty, 1756." And the said Paper was read by the clerk: and ordered to be taken into consideration to-morrow.

Dec. 4. The order of the day being read for taking into further consideration the matter of the Complaint made yesterday, of a spurious and forged printed Paper, dispersed and publicly sold as his majesty's Speech to both Houses of Parliament: The House was informed, "That there were some persons attending without, who could give evidence relating to the printing and publishing of the said printed Paper." And thereupon John Spenceley, Anne Rivington, Jane Lawson, and John Miller, were severally called in: and examined, upon oath, in relation thereto. And it appearing, upon the said examination, "That George King a bookseller in Hanover-street, Long Acre, and James Howe a printer who lives in the same house with the said King, were concerned in printing and publishing the said spurious and forged printed Paper:"

Resolved, 1. "That the said printed Paper is an audacious forgery, and a false, scandalous, and infamous libel, a high contempt of his majesty, his crown and dignity, and a notorious violation of the privileges of parliament; tending to poison the minds of the people, and to create and foment jealousies and animosities amongst his majesty's good subjects in this time of common danger. 2. That, in abhorrence and detestation of such abominable and seditious practices, one of the said printed papers be burnt, by the hands of the common hangman, in the New Palace Yard, Westminster, on Wednesday the 8th instant; and that another of the said printed papers be burnt, by the hands of the common hangman, before the Royal Exchange in London, on Friday the 10th instant, at the same hour; and that the sheriffs of London and Middlesex do attend at the said times and places respectively, and cause the same to be burnt there accordingly."

Ordered, that the matter of the said Complaint be taken into further consideration on the 15th instant.

Dec. 15. The order of the day being read, for taking into further consideration the matter of the said Complaint, the deputy gentleman usher of the black rod was called upon, to give an account of what he had done in pursuance of the order of the 4th instant, for taking into custody James Howe and George King; and acquainted the House, "That he had taken the said George King; and that he was attending without, in custody; and that he had used all possible endeavours to take the said James Howe; but that he absconded, and could not be found."

Then the said George King was ordered to be brought to the bar: and being brought accordingly:

The House was informed, "That there were some persons attending without, who could give further evidence in relation to the said James Howe and George King's being concerned in printing and publishing the said printed paper." And thereupon Samuel Harrington a hawker, and Ann Realton servant maid to the said James Howe, and William Garforth servant also to the said Howe, were severally called in, and examined upon oath, in relation thereto. And having been severally cross-examined by the said George King, and withdrawn: The said George King was heard what he had to offer in his defence: and denied his being concerned with the said James Howe in printing and publishing the said paper; and said, "That he never had one of the said printed papers in his possession; and that he had a witness without, who could prove his being from home from 12 till 4 in the afternoon on the 2nd of December, and desired she might be called."

Whereupon Elizabeth Frazer, who lodged at the said King's house, was called in; and examined upon oath, in relation to the said King's being from home on the

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2nd of December. And then she was directed to withdraw. And the said King, having no other witness to call, nor any thing further material to offer in his defence, was ordered to be taken from the bar.

And a Report of Precedents, as to what punishments have been inflicted, or methods taken to vindicate the honour of this House, in cases of any breach of privilege or contempts to this House, made from a committee on the 25th of November 1724, was read: as was also an entry in the journal of the 19th of February 1754, of the resolutions and judgment of this House, in the case of David Home, who had been guilty of forging, publishing, and selling, written protections.

Resolved, That the said George King is guilty of being concerned in printing and publishing the said spurious and forged printed paper.

Ordered and adjudged, That the said George King be, for his said offence, fined in the sum of 50*l.* sterling to his majesty; and that he be committed prisoner to Newgate for the space of six months, and until he pays the said fine.

Ordered, That the said George King be now brought to the bar; and that the judgment of this House abovementioned be pronounced upon him by the lord on the woolsack.—Accordingly he was brought to the bar; and, being there on his knees, the said judgment was pronounced upon him by the Speaker.

On the 4th of April 1757, the House being informed, "That the deputy keeper of Newgate attended, with his prisoner George King, pursuant to the order of Friday last:" The said King was brought to the bar: where he, on his knees, begging pardon for his offence, and humbly imploring forgiveness and mercy, was reprimanded by the Speaker; and then he was directed to be taken from the bar.

Ordered, That the fine of 50*l.* imposed on the said George King be remitted; and that he be discharged out of Newgate, paying his fees.

Supplies granted.] The committees of Supply and of Ways and Means, being appointed, took into consideration the necessities of the state, and made very ample provision for enabling his majesty to maintain the war with vigour. They granted 55,000 men for the sea-service, including 11,419 marines; and for the land-service 49,749 effective men, comprehending 4008 invalids, and voted 8,355,320*l.* 9*s.* 3*d.* for the support of the same.

Militia Bill passed.] Dec. 14. Mr. G. Townshend moved the famous Militia Bill. While the Bill remained under consideration, a Petition for a constitutional and well-regulated Militia was presented by the mayor, jurats, and commonalty of Maidstone in Kent, in common-council assembled. At the same time remonstrances were offered by the Protestant dissenting ministers, of the three denominations, in and about the cities of London and Westminster; by the protestant dissenters of Shrewsbury; the dissenting ministers of Devonshire; the protestant dissenters, being freeholders and burgesses of Nottingham, joined with other inhabitants of the church of England; expressing their apprehension, that, in the Bill then depending, it might be proposed to enact, that the said militia should be exercised on the Lord's Day, commonly called Sunday; and praying, that no clause for such purpose might pass into a law.

After mature deliberation, and divers alterations, it passed the lower House, and was sent to the Lords, where it underwent several amendments, one of which was the reduction of the number of militia men to one half of what the Commons had proposed; namely, to 32,340 men for the whole kingdom of England and Wales. The amendments being canvassed in the lower House, met with some opposition, and divers conferences with their lordships ensued: at length, however, the two Houses agreed to every article, and the Bill soon received the royal sanction.

1757.

The King's Message concerning an Army of Observation and the Treaty with the King of Prussia.] February 17, 1757. Mr. Secretary Pitt presented to the Commons the following Message from his majesty:

"GEORGE *R.*

"It is always with reluctance that his majesty asks any extraordinary supplies of his people; but as the united councils, and formidable preparations, of France and her allies, threaten with the most alarming consequences Europe in general; and as these most unjust and vindictive designs are particularly and immediately bent against his majesty's electoral dominions, and those of his good ally the king of Prus-

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sia, his majesty confides in the experienced zeal and affection of his faithful Commons, that they will cheerfully assist him in forming and maintaining an army of observation for the just and necessary defence and preservation thereof, and enable his majesty to fulfil his engagements with the king of Prussia, for the security of the empire, against the irruption of foreign armies, and for the support of the common cause.

"G. *R.*"

Ordered, to be referred to the consideration of the Committee of Supply.

Debate in the Commons on the Treaty with Prussia.] February 21. The order of the day, for the House to resolve itself into the said committee, being read, the copy of the Treaty between his majesty and the king of Prussia, with the copy of the secret and separate article belonging thereunto, both signed at Westminster, January 16, 1756, and also the copy of the Declaration, signed the same day at Westminster by the plenipotentiaries of his majesty and the king of Prussia, were referred to the said committee, in consequence of which the committee after debate came to this Resolution: "That a sum, not exceeding 200,000*l.*, be granted to his majesty, to assist him in forming and maintaining, during the present year, an Army of Observation for the just and necessary defence and preservation of his majesty's electoral dominions, and those of his allies; and towards enabling his majesty to fulfil his engagements with the king of Prussia, for the security of the empire against the irruption of foreign armies, and for the support of the common cause." Which Resolution being reported, was agreed to by the House.

In the course of the Debate in the Commons upon the Treaty with the king of Prussia, the following Speeches were made in favour of the Treaty:*

Sir; the treaty now in question is, perhaps, a transaction of as interesting a nature to the interests of England, and the liberties of Europe, as any that ever was brought into any assembly.

Gentlemen, upon one side of the question, have said a great deal against what they call "continental connections," and others have supported them with equal warmth. For my own part, Sir, give me leave to say, that I partly differ, and partly agree, with both; and, let me say farther, that the treaty before us seems to have hit the very point in which the true interest of Great Britain ever lay; in which, Sir, it ever must lie while we are a Protestant, a free, and an independent people.

Could I conceive a continental measure, Sir, so circumstanced as to be totally unconnected with our interest, I am very sure, my hon. friend over the way could not oppose it with more zeal, though perhaps he might oppose it with more abilities, with more efficacy, than I would. But, Sir, I am afraid I may not have the same notions of the interest of Great Britain, that some gentlemen have.

In my opinion, Sir, the interest of England, in whatever light we view it, comprehends the whole system of public liberty in Europe. Whenever that, Sir, is affected, whenever that is shocked, give me leave to say, and I appeal to all experience for the truth of what I advance, the interest of England is endangered. This, Sir, is a maxim that has ever been laid down and invariably pursued by all the wise and public-spirited princes and ministers we have ever had, and I hope it never shall be given up under this family.

The increase or diminution of our exports and imports, the articles upon our custom-house books, and the several matters contained in the papers that now lie before us, are, all of them, points of the highest consequence to the interest, nay, I may say to the existence, of this kingdom: but for gentlemen to confine all their views, all their cares, all their reasonings, to that point, is like cleaning the dial plate, and adjusting the movements, of a watch, without considering that the main spring is ready to snap asunder. The preservation of the public liberty of Europe, which can be effected only by the preservation of the Protestant religion, give me leave to say, Sir, is the main spring of the interests of Great Britain. The moment, Sir, we shall fold our arms, sit tamely by, and see that destroyed, that moment we give the ambition of France leisure to look round, leisure to cope with us, upon the very element we now consider as our greatest, our only, security; a dreadful prospect, Sir, when we consider what has happened during the course of the late and present war.

I am as far as any gentleman in this House can be, from justifying all the continental connections we have run into for

* From the Literary Magazine for 1758.

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these 20 years past. But, Sir, will any man lay his hand upon his heart, and say that if Great Britain, during that time, had been an unconcerned spectator of the troubles of Europe, that France would not, at this time, have been more than in a condition to have disputed with her the empire of the seas. Even with all the ruin which the late war brought upon her marine, notwithstanding the numberless losses her trade has sustained in this; notwithstanding all the providential checks her arms have received in Germany, and the money she has squandered on the continent, you see what efforts she is even now making at sea; efforts that will stagger future times to believe, unless (which heaven prevent) their future successes shall render them credible.

I know not any one point more generally agreed upon, amongst all who have opportunities of being informed, than that the French ships are in every respect preferable to ours; than that their metal is heavier, and that both their officers and men are at least as brave, and behave as well in action as ours, and I believe, Sir, we have but too good reason to believe they will never be at a loss for materials to build a navy, while they preserve their superiority on the continent. If, Sir, these things are so, (and who can dispute that they are not so?) what, in the name of heaven, can prevent France from having a marine superior to ours, whenever she is at freedom to bend her power and employ her subjects on that, and that alone?

The single consideration therefore with me is how far we are, humanly speaking at present, from that fatal period? This, Sir, I say, is the single consideration that now influences me, and I cannot help calling it a tremendous one to every true Englishman.

Public liberty has, in the person of his Prussian majesty, a champion on whom I cannot bestow a more just, and therefore a greater encomium, than to say, that he is worthy the cause in which he fights, and the cause is worthy of him. This, Sir, is saying more for him than we can say by giving him the preference to all the heroes of antiquity. But, Sir, though the person, the cause, and the arms of that great prince, seem hitherto to have been the peculiar care of heaven, we are to remember that success is attached to no cause, and, even the hero I am now speaking of, has had his reverse of fortune. I speak not this, Sir, as if we had any reason to doubt his virtue, his courage or his wisdom, but I cannot go so far as to say, that he is omniscient or omnipotent; that victory will be always chained to his chariot wheels, and that conjunctures cannot happen, in which the most consummate civil and military virtues may be oppressed by superior power and numbers.

An hon. gentleman, whom I always hear with pleasure, even when he speaks against my own sentiments, has said that Germany will be always able to secure her own liberties, and he appeals to the events of last year, as a proof of his observation. Sir, I am as sensible as any gentleman can be of the greatness and glory of those events: but have we not, almost in our own memory, examples where a continual career of victories over a reduced enemy has, at last, taught that very enemy to beat their conquerors? Some of us may remember the case of Charles king of Sweden, who by often beating the Muscovites with greater odds of numbers against him than the king of Prussia had to do with in the last campaign, and was at last ruined by the skill and knowledge of discipline which his enemies acquired by their defeats. The valour and good discipline of the Austrian troops were both felt and acknowledged in the last campaign by his Prussian majesty, who never showed himself a greater man than he did in confessing his own fallibility, and giving even to his enemies their due praises. His gaining the battle of Rochbach, next to his own matchless conduct and valour, was, humanly speaking, owing to the bad policy of the court of Vienna, who trusted the contingent troops of the empire, under prince Saxe Hilburghausen, to co-operate with those of France, two bodies of men, Sir, that I will venture to say, would rather have cut one another's throats, than those of the Prussian army. The stream of successes that afterwards attended his arms, were great beyond any parallel, at least in modern history. But had not his enemies been intoxicated with an opinion of their own power, had not want, sickness and desertion weakened, and pride, rage, and revenge blinded, the Austrians, his laurels, though not less glorious, must have been less spreading than they are at present. I know, Sir, his Prussian majesty shewed himself a great general, by taking the advantage of the circumstances that either enfeebled, discouraged, or divided

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the enemy, but let me ask, Sir, what must have been the consequence had no such circumstances presented themselves?

In short, we are not to trust to such another concurrence of circumstances in our favour; it would be tempting Providence to do it. It would be acting like the fellow in the fable, who prayed Jupiter to help his cart wheels out of the slough, when he ought to have freed them by the vigorous application of his own strength and shoulders.

I hope I may, without offence, ask gentlemen, in what condition must the affairs of this Protestant kingdom be, should our enemies profit by experience, should ambition and revenge reconcile the powers that ambition and revenge have ever disunited? I cannot, Sir, without trembling, enter into the idea. And give me leave to ask farther, Sir, where is the improbality that they will not? Consider the progress the French have made in their marine ever since the commencement of this war. Consider the successes they have had in America, which was confessedly the primary object of the war on both sides, and is, in fact, the grand spring of all their motions. Gentlemen, when they look upon this war in detached operations, must always form a wrong idea of the French designs, and partial views will ever produce partial representations.

The French, Sir, consider power as their ultimatum, and wherever this power can be acquired it must equally answer their purposes. They know that the source of power lies in riches, and that the source of the English riches lies in America. They know that in proportion as we are weakened there, in the same proportion they are strengthened. And, Sir, any man who considers their conduct ever since their differences with England broke out, will have no difficulty in concluding, that, however their operations may be directed in Germany, the ultimate object of them lies in America. Gentlemen have talked a great deal of religion, and a religious war. I am no stranger to the weaknesses of some powers in that respect, but I look upon religion, Sir, to be only the side wind of ambition amongst princes. But supposing it, Sir, to be what we may call the cardinal point of their political compass; how is the matter altered? The tools of the church of Rome are taught that it is necessary to acquire power in order to establish religion, so that the work of ambition is always sure to go forward whether religion be their primary or secondary view.

Therefore, Sir, in the present case, it does not signify a farthing whether the present is a war of religion or of ambition; we are sure that it is a war designed on the part of our enemies, to strip us of our most valuable properties, their religion teaches them to do that, to begin there. They can succeed in no other way; the Popish religion never did succeed any other way but by strengthening themselves and weakening their adversaries.

Gentlemen, I know, have said that if the views of the French are upon America, why ought we not to have America in our eye likewise? I agree, Sir, that we ought, but then, Sir, I think we have our eye upon America, when we fix it upon any spot of the globe, where the power of France is to be curbed or her injustice chastised. If we can, by supporting his Prussian majesty, divert the French from pursuing those schemes that must infallibly give them a superiority by sea; we provide in the most effectual manner for our settlements in America. Give me leave therefore to say, that gentlemen do not take a sufficiently comprehensive view of the French politics, when they make a distinction between Germany and America. For when they have nothing to fear from Germany, we shall have every thing to fear for America. The efforts they are now making in Germany would not be worth the blood and treasure it has cost them, if the German quarrel (for such, Sir, I must call it, though consequentially it has become our quarrel) between the queen of Hungary, and the king of Prussia, was their ultimate design of their operations in Germany.

Is it, Sir, to be imagined, that the French would spend ten millions of money, and sacrifice a hundred thousand of their best troops (for, Sir, it can be proved this war has not already cost them less,) merely to obtain justice and reparation for the hereditary enemy of their country. If we reflect, Sir, upon the manner in which the French entered into this war, we cannot hesitate a moment in concluding that their interest in America, was the motive that drew their sword in Germany. They had no quarrel, they could have none with the electorate of Hanover, had they not imagined that his majesty's natural concern for that electorate, would divert the storm from that, by sacrificing our interest in America. They were happily deceived,

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for his majesty's virtue disdained such an exchange; he shewed himself a true king of England, even at the expence of his ruined electorate.

I am very ready, Sir, to admit, and I really believe, that the French out-witted themselves, by their marching to Hanover, and that the spoils of the electorate, great as they were, did not compensate for the immense sums of money and numbers of men which the conquest of it cost them. The French, Sir, by a wonderful concurrence of events in favour of his Prussian majesty, were driven out of Hanover, and their affairs upon the brink of ruin in Germany. But this, Sir, is so far from being an argument against assisting the king of Prussia, that it is the strongest reason that can be urged, why we ought to support him with more power and spirit than ever. We have it now, Sir, in our power to give them such a diversion as will oblige them to look at home, and if we let it slip through our hands, we shall be the worst of madmen.

Having said thus much, Sir, in favour of continental measures, to which I shall always profess myself a friend, when properly circumscribed, give me leave to say once more, that there is a certain species of them, to which I should give my dissent. For instance, Sir, if 500,000*l.* can enable the king of Prussia to maintain double the number of men, that we can furnish him with for the same money: I should be against furnishing the men, and that for reasons which are too obvious for me to take up your time farther in explaining. One reason I have, and I mention it here, because I believe it is a singular one, though it has not, on that account, the less weight with me. I think, Sir, that this country can spare no men at present. I think, the want of labouring hands is the greatest calamity we are now threatened with, and feel all over England. It is true, I may be told, that soldiers are no great labourers and manufacturers. But, Sir, there are few of them who are not bred to some kind of labour or other, and they still are of service in country towns. However, as some gentlemen may think that consideration too inconsiderable to ground an argument upon, I am of opinion, Sir, that we may have occasion at home, or in America for all the men we can spare, and if we were to send twelve or fourteen thousand men (for I think it would be ridiculous to send fewer) to the king of Prussia, we must supply them out of the working part of the nation, which must manifestly add to the dearth of provisions, and discontent of the poorer sort, that is now so visibly seen and felt all over the kingdom.

I shall not take your time farther up, only I hope, that the measure which has been wisely conducted by his majesty, will meet with so general an approbation of both at home and abroad, that our enemies shall no longer flatter themselves, and reproach us with being a divided people.

Sir; I do not by any means rise up to interrupt that unanimity which my worthy friend over the way so very properly recommended at the close of his speech. I think the occasion requires unanimity, and that we ought to embrace every opportunity of discovering to the world how ready we are to support his majesty in this just and necessary war. But, Sir, just and necessary as it is, my opinion with regard to continental connections, is so far from being altered, that it is strengthened upon the present occasion.

I therefore rise up, Sir, to explain the motives why I am for enabling his majesty to make good the stipulations of the treaty before us. I am sensible how apt some ministers have been to press, as it were, precedents into their service, without considering, or rather seeming to consider, the essential characters that distinguish measures and conjunctures.

I am, I own it, a professed enemy to our intermeddling in the affairs of the continent; I always have been so, and every day's experience of my life confirms me in that aversion. But, Sir, I am none of those who can pretend that no conjuncture can happen to render Great Britain necessarily and wisely a party in a continental war. I think the present conjuncture is of that kind. I think we are called upon by every tie of duty, honour, interest and religion, to support his majesty in the engagements he has so wisely, and with such probability of success, formed for the deliverance of Europe. Notwithstanding that, gentlemen will pardon me if I differ widely from them in my opinion of the manner in which we ought to espouse a continental interest of any kind. Some gentlemen, Sir, are laudably biassed in favour of those measures, that half a century ago humbled the pride of our natural and inveterate enemy. That undoubtedly, Sir, was a most glorious æra;

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but it was a glory that cost us dear; and some gentlemen have been known to think, that nothing is truly glorious that is attended with the evils and calamities which the triumphs of those days cost us. Without carrying matters so far, Sir, I really am of opinion, that we might have obtained the same ends with much less expence both of blood and treasure; which surely would have rendered the ends much more desirable, unless gentlemen should adopt the vulgar notion, 'The more cost the more honour.'

My hon. friend was greatly in the right when he displayed the importance of this war, but really, Sir, I cannot help thinking that wealth is the main spring of this, and indeed of all other nations. It is to the body politic what blood is to the natural body, the more we husband it in a proper way, the more vigorous we are. It is from this maxim only that I am for supporting the measure now under your consideration. It happily deviates from all the expensive extravagant schemes that avarice and ambition have often dictated in this country, and I am firmly of opinion will effectually answer the purposes of our allies as well as our own.

I agree with my hon. friend in all the encomiums he has passed upon that glorious monarch who now stands forth the bulwark of the Protestant religion, and of the liberties of Europe, I may say, of mankind. But, Sir, important and momentous (and nothing can be more so) as the cause is in which he fights, I cannot take upon me to say that my voice should have been for our engaging in this war, had we concerned ourselves in it after any other manner than in the stipulations of the treaty now before us. For though I agree in the main with the sentiments of my hon. friend who spoke last; yet I cannot think that the interest of Great Britain leads her to support upon the continent of Europe, a war which was begun upon the continent of America. Give me leave farther, Sir, to say, it does not clearly appear to me, that the successes of his Prussian majesty can be, in any shape, decisive of our quarrel in America; or that our differences with France have any manner of connection with those between the courts of Versailles and Berlin.

The business therefore, Sir, that ought to employ the attention of Great Britain at present is, how to draw to herself consequential advantages from the success of the Prussian arms: for really I am not so sanguine as to imagine, that we either have reaped, or can reap any immediate benefits from it. This I think is the great merit which the ministers who have conducted the treaty before us, can plead. It is very plain from the declarations made by the court of Berlin, that we have hitherto looked upon ourselves as quite unconnected with the success of his Prussian majesty; and I cannot help thinking we were very much in the right so to do. For however wise the measures, and however glorious the successes of his Prussian majesty have been, it is certain that the interest of Great Britain had no manner of relation to the quarrel between him and the court of Vienna.

I therefore, Sir, cannot help thinking it extremely absurd to charge the ministry who have advised or negociated the treaty before us with a dilatory conduct. I shall not pretend, Sir, to say, by whose influence it was that we voted the large sum we have paid, or are to pay, for forming the army of observation. But, Sir, if the ministers who advised that measure, had imagined that we were too dilatory in forming closer connections with his Prussian majesty; why was not that money applied for his support? I own, Sir, I should have thought it wrong if it had, but still I should have thought it better applied than in the manner it was applied.

And here, Sir, I must take an opportunity of expressing both my surprize and sorrow at the reflections I have both read and heard upon the conduct of the army, which I think was very properly termed the army of observation. I shall be the last man in this House to defend the propriety of the measure itself, but I will venture to say, that the royal personage who commanded it, acted with as much courage and good conduct, as any general ever did under like circumstances. I say, Sir, under like circumstances, for I cannot help thinking, that all of them were very discouraging, and some of them, perhaps, deserved a harsher epithet. They were, Sir, at least, such, if any credit is to be given to public report, as brought no manner of assistance or relief to his Prussian majesty, so that I must consider the formers of that measure as thinking themselves quite detached from any obligation to assist him.

An hon. gentleman who sits near me, was pleased to say, that the measure was well intended, but was disappointed by unforeseen accidents. I wish the hon.

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person had mentioned one of those accidents. I know of none. There was not a single accident happened in the whole course of the campaign, that was not foreseen and foretold. The vigour of his royal highness's operations was crampt by the very nature of his commission, which put him at the head — of what? — an army of observation! It was, Sir, foreseen and foretold a twelvemonth before, that if the French were in earnest to invade Hanover, it was impossible for this country to form any measures that could defeat them.

It was equally certain, Sir, that his majesty in his electoral capacity could not defend his dominions under the unfortunate circumstance of an invasion from France, favoured by her unnatural conjunction with the court of Vienna. I dare to say, Sir, there was not a man of sense in Hanover, who entertained the smallest hopes that his country could be saved by the army of observation. But, Sir, that was not the most unfortunate circumstance for his royal highness. For he was at the head of an army not only greatly inferior to his enemy; but, if I am not greatly misinformed, a strong party in his majesty's electoral counsels was for submitting to France, rather than hazard the desolation of the electorate by an ill-judged and unequal opposition. This, Sir, I am apt to think, was the real state of the case, and was the true cause that laid his royal highness under the disagreeable necessity of concluding that convention, which so much astonished all Europe.

Gentlemen have been lavish of their praises of the behaviour of the Hanoverians since that time; and I agree that no troops could behave better than they have done of late. But, Sir, to what has this been owing; but to the injustice, insolence, and rapaciousness of a needy general. Give me leave to ask any gentleman, whether he believes, if the French had, *bonâ fide*, observed the terms of the convention, astonishing as it was, that his majesty, or his electoral counsels, could have had any pretext for putting his troops again in motion. No, Sir, happily for Hanover, and indeed for all Europe, the French most infamously rendered the convention void, by breaking almost every article of it, by which his majesty's electoral subjects, who had favoured the convention, found themselves and their country in a worse state than ever. They therefore had no safety but in despair; and notwithstanding the menaces of the French general, they threw off his yoke, and once more drew their swords for their country.

Upon the whole, therefore, Sir, it is plain, that his Prussian majesty was not the primary object of that ministry which concerted the scheme of an army of observation, to which Great Britain contributed so very largely. It is not therefore with the very best grace that gentlemen accuse the formers of the treaty before us, of being dilatory in our measures. His Prussian majesty, Sir, would have entertained, I dare to say, a very mean opinion of our understanding, had we laid ourselves under any obligations to have paid him a shilling before we were perfectly secure against all apprehensions of a separate peace. The treaty before us, Sir, does secure us against such apprehensions; which I will take the liberty to say, were at one time but too well founded. It is, Sir, against common sense to imagine, that if France, immediately after the battle lost by his Prussian majesty, had offered to take off from him the weight of her arms, that that monarch would have been so blind to his own interest, as not to have returned to his alliance. It was owing to the insatiable revenge, and unaccountable madness of the court of Vienna, that some accommodation of that kind did not then take place, and if it had, who could have blamed him after the convention of Closter-Seven was concluded? Could he not have very plainly turned the tables upon us, by telling us, that as he was under no manner of obligation to us, we had nothing to accuse him of. But, Sir, the inveteracy of the court of Vienna, as I have already hinted, by a very odd turn, proved his happiness. For it gave him no leisure for negociating, and he found his safety in the greatness of his danger, which obliged him to exert himself in so wonderful a manner as effected his deliverance.

My hon. friend seemed to be alarmed at the supposition of what the event would have been, had things taken a different turn. Why really, Sir, it is very fortunate for us that matters stand as they do with his Prussian majesty; but I cannot for my life, suffer myself to imagine, that any event in Germany could have affected us in Great Britain. Neither can I entirely agree with my hon. friend, in giving the French marine a superiority, or indeed an equality to ours. I am free enough to own that their officers are brave, but I can by no means be of opinion, that the French

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seamen are in any degree comparable to our tars, when they are well commanded. Neither do I conceive that their ships are superior to ours in any respect. Clean ships of one nation, will certainly sail better than foul ships of another nation, and our ships are generally more at sea than the French ones are, and therefore in certain encounters they have had some superiority on that account. But all that, Sir, is merely accidental. It is true, I do believe and admit, that the weight of metal on board the French ships, is generally greater than on board ours. But, Sir, as I do not pretend experimentally to know any thing of sea affairs, I have talked with some gentlemen that do, and they all assure me, that what is called the weight of metal, is, in most cases, so far from being an advantage, that it is of detriment in an engagement; I mean, Sir, that kind of unsizable, unwieldy metal, that large French ships of war generally carry; and indeed, theory and common sense, and I believe experience likewise, confirms this opinion.

But, Sir, whatever bad successes we have had, whatever miscarriages have happened, are not subjects of our present deliberation. The treaty now before us, seems to put things into a new system, and more than probably will give a new face of affairs to Europe. By it, the interest of his Prussian majesty and our interest become the same; and my voice shall be for this treaty, as it presents a fair and rational prospect of serving the original object of Great Britain in the present war, I mean our American interest. But I really must be free enough to declare, that I think it would have been preposterous for us to have launched out into the expence we incur by this treaty, either last year or the year before, or to have given one shilling without being assured, as we now are, that his Prussian majesty would make no separate peace.

At the same time, Sir, though I think the money we are to pay him a very large sum, yet it is a very small one compared to the vast sums we must have expended, had we sent him troops instead of money. I really do not know, considering the modern way of multiplying expences, which expences, as things have been suffered to run on, are unavoidable by the most active economy, whether the marching, encamping, countermarching, embarking, disembarking, 12 or 15,000 men, horse, foot, baggage and artillery, with the hire of the transports to carry them, would not have exhausted the whole sum that we are here stipulating to pay for one year. Therefore, Sir, I repeat it, that I am for this treaty, but my voice should have been against any treaty that tended to oblige us to enter into this alliance in any other shape, or upon any other terms.

Sir; though I believe no gentleman in the House can doubt of my ready concurrence in approbation of the treaty now before us, yet I cannot help standing up, in imitation of the hon. gentleman under the gallery, to explain the principles upon which I give that concurrence.

And here, Sir, I am free enough to own that my principles, with regard to continental connections, are very different from those of most gentlemen who have spoken upon this occasion. I am neither ashamed nor afraid to own, that my principles are those of the Revolution, which, I am sorry to say, some gentlemen seem to disclaim, in order to make their court to the professors of more fashionable politics; for so I must deem all the anti-continental systems that have been so lately adopted.

I am well aware, Sir, of the advantages gentlemen have, when they declaim against Great Britain's connections with the affairs of the continent, and how popular that side of the question is at present; and I think very properly so, if the doctrine is not pushed to an extravagant excess. But give me leave to say, Sir, that gentlemen are not sufficiently aware of what they say, when they declaim so violently as they do, against all connections between Great Britain and the continent. Every violent declaration of that kind, in my opinion (and I will appeal to all history for the truth of what I say) is a reflection upon the best and wisest governments that England ever saw. I will be bold enough to say, that England owes her present religion, her present liberty, her present wealth and commerce, to her cultivating proper connections with the continent; and, at times too, when neither her duty nor her interest called upon her so strongly, as they now do to improve every advantage, and to remove every difficulty, that can stand in the way of asserting, of restoring and establishing the liberties of Europe, against a people who, for a hundred years past, have been the common disturbers of mankind.

There is, Sir, nothing more easy, than,

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in accounts of great expenditures, to point out some articles that seem unnecessary; others perhaps that appear extravagant, nay, some that may seem quite inconsistent with that very interest for which the expences were incurred. Such excesses are inavoidable: but, Sir, when the great and general ends of commerce, religion and liberty are answered, I think they are not to be hazarded for more minute considerations. I believe there never was in this world a prince who looked into her accounts and understood her interests better than queen Elizabeth did, yet I will venture to say, that she had more connections with the continent, than any prince that ever sat upon the English throne. It is true her predecessors had great dominions in France, which gave them a natural and a necessary connection; but it generally was with France alone, or a few very contiguous states. But queen Elizabeth filled all the corners of Europe with her ambassadors or her armies. She had her private ministers every where abroad, and there was not a single event of any importance upon the continent, during her long reign, in which she did not capitally interest herself. This conduct, Sir, undoubtedly led her into great expences, notwithstanding all her frugality and management, and the friends of the pretender to her crown (for such there was then as well as there is now) were no doubt extremely assiduous in endeavouring to impress the people with a notion, that all the blood and treasure that were spent abroad was lavished away in connections that were foreign to the interests of England.

But that great princess, Sir, knew better. She knew, nay, she felt, the acquisitions which England was daily making in trade, in power, and in credit, by her well-timed connections with the continent, by putting herself at the head of the Protestant cause, and by maintaining that balance of power in Europe, which some gentlemen now affect to despise and ridicule.

It was, by this wise conduct, that great queen laid the foundations of that credit and power all over Europe, that England, notwithstanding all the mismanagements of government, has enjoyed ever since. She went so far, as even to support the French king. Nothing surely could have an aspect more foreign to the interests of England than such a step; but she acted upon that plain, that wise, that honest principle, on which we ought to act now; that an overgrown power, especially when formidable to religion and liberty, ought, wherever it is lodged, to be reduced and humbled. There was not a petty court in Germany where she had not a minister or emissary of some kind or other; the Poles, the Russians, nay, the Turks felt her influence, and whenever the Protestant interest required it she was as ready to send her troops and her money abroad, as her ambassadors or agents.

Her successor, who neither understood nor maintained the honour and interest of England so well as she did, was very lavish of his negociations on the continent, but laid it down as a rule to employ no troops but ambassadors, and of those he kept a whole army in pay, and no money but what served to display his own, and their, ridiculous vanity. The very arguments that I daily hear and read against continental connections were urged in the court speeches and papers of that time, but greatly to the grief, and sometimes to the danger, of all well-wishers to religion and liberty; for many of them could not stifle the indignation they conceived against so disgraceful a conduct, and so much the reverse of that of his glorious predecessor.

I shall not, Sir, trouble this House with any detail of the misfortunes and losses which those anti continental measures brought upon England. The cause of religion and liberty was now despaired of, and, by our abandoning all our Protestant friends abroad, it must have been absolutely ruined, had not the Revolution critically saved both, and introduced a new set of maxims and measures.

If any gentleman will stand up and say, that those maxims and measures did not save the religion and liberties of Great Britain, if he will say they were not truly English, if he will say that they did not give this nation a respect and figure in the eyes of all Europe, that we enjoy the benefit of at this very day; I say, Sir, if any gentlemen will deny all these propositions, and yet pretend to reason upon British principles, his reasoning must be past my comprehension. I know, that as soon as a resolution was taken at court to bring in the Pretender, and to set him on the throne of England, another set of maxims and measures came in fashion and were pursued. Endeavours were used, and I am afraid with too much success, to de-

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ceive the eyes of the nation, and to show the people of England, that the whole system of the Revolution was utterly destructive of their true interests, and a set of hackney writers were employed in spreading the very doctrines that the scribblers of this very time have adopted.

For my own part, Sir, I shall always have a pride in opposing any doctrine that is inconsistent with that Revolution to which we are indebted for our religion and liberties. I am free enough to own that I am ready to support any measure that has a tendency to humble France. That is an end, for which, I think, England can never pay too dear. The hon. gentleman who spoke last was pleased to make some observations, I think, not greatly in favour of the conduct of our ministry, with regard to the army of observation, and if I understand the hon. gentleman's meaning, he seems to think it to be a measure entirely unconnected with the interest of his Prussian majesty. Sir, I should be extremely glad, if such a treaty as this had come before us last year, be the advisers or framers of it who they will, but I cannot enter into my hon. friend's idea of the army of observation. If I understand any thing, it is, that whatever employs the power of an enemy, by giving it a diversion, has a direct tendency to serve that ally in whose favour the diversion was made. Let me suppose, for instance, that no army of observation had been formed to keep the French at bay for some time, (for it surely had that effect) and that the enemy had had nothing to fear on that side, must not the king of Prussia have had most of that army to deal with, to the amount I believe, of 30,000 men, and what an odds must that have made, Sir, in the affairs of the campaign?

But, Sir, though I have no authority for what I say, yet I am in my own mind well convinced that the forming an army of observation under his royal highness was the measure which his Prussian majesty not only approved of, but desired, as the best service that could be done the common cause, as matters were then circumstanced. As to the convention signed at Closter-Seven, I really believe that no gentleman who hears me thinks that it was owing either to his royal highness, or to the advice of any British minister, therefore, Sir, as it is a matter quite distinct from any consideration that can come before this assembly, and as it was authentically declared to be such, I think any farther mention of it on this occasion is entirely needless. They who advised it must answer for it to their own sovereign, their own country, and their own conscience.

But, Sir, I must be so unfashionable as to mention another reason why I think the forming an army of observation, and our contributing to it so largely as we did, was a right measure, though the interest and affairs of the king of Prussia had been quite out of the question. My reason is, Sir, (gentlemen will not be surprized when I mention it) because Hanover was in danger. I cannot for my life see any reason why this kingdom should not be just as ready to assist that electorate as any Protestant dominion on the continent. I shall go out of this world, Sir, with an opinion that we ought not to be prejudged against the interest of Hanover merely because the Hanoverians and we are governed by the same sovereign. That, Sir, is the very reason why we ought to give them the preference to all Protestants, and Sir, had the meanest prince in Germany, in alliance with queen Elizabeth, or with any of our former sovereigns, when directed by good counsels, been insulted by any superior power, England would have flown to its assistance with more men or more money than all we furnished towards the army of observation. This, Sir, I acknowledge, to be my way of thinking, nor shall I ever alter it as long as his majesty and his royal House shall so scrupulously, as they have ever done, adhere to the *pacta conventa* of this constitution, and taking the sense of parliament upon every measure that has the least relation towards connecting the interest of Hanover and England. The most violent declaimers, the most virulent writers have never been able to produce the least shadow of an instance in which the Act of Settlement has been infringed since the accession of the present royal family to the crown, and therefore, Sir, I must look upon all those jealousies of Hanover, that have been so industriously spread about in this country, to be groundless and affected.

Were it possible, Sir, that this could admit of any additional proof, I might appeal to his majesty's own conduct in that very quarrel, which has brought so much distress upon his electoral dominions. Did he not expose them to ruin rather than listen to any peace that could infer the least prejudice to England? Did he not reject all offers that could damp the spirit of the common cause; and have not his

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enemies themselves avowed, both by their conduct and their writings, that they attacked Hanover merely on account of their quarrel with England? Could duty, could justice, could gratitude, could common honesty, suffer us then to remain unconcerned spectators of the distress of a state suffering for our sake? Therefore, Sir, I repeat it, that I should be for any measure, though it did not come before us in so desirable a shape as the treaty now under our deliberation does, that could make the powers on the continent feel the weight of our resentment, and manifest the spirit with which we are determined to support the elector of Hanover for the generous part he has acted as king of Great-Britain. Had his majesty, Sir, been the most petty prince in Germany, and had he exerted himself with that resolution, that spirit, and that firmness he had manifested in every measure that concerns England, this assembly, the peers and the people of England, would wrong their own dignity, their own honour, their own importance, if they did not support him to the utmost. Let us, Sir, make the case our own; by supposing that we have drawn upon ourselves the resentment of all the neighbouring powers who have invaded and destroyed our country; by being faithful to the interests of another people, (supposing it to be Hanover,) I say, Sir, what opinion must we entertain of that people, for whose sake we are thus ruined, if they refused to support us, even, Sir, to their last shilling?

It was, Sir, by the generous maxim of supporting her most inconsiderable allies, that Rome rose to that pitch of power and credit she obtained, and we may talk, Sir, to eternity against continental connections, but the moment we prove either ungrateful or false to our allies, that moment we must sink in interest as well as esteem with all the world.

Gentlemen speak, Sir, of the independency of Great Britain upon all the rest of mankind; but that is only a mode of talking. No trading country upon earth is independent upon all the rest of the globe. Commerce, Sir, forms connections that situation denies; and I should be glad to hear any gentleman explain the manner in which it is possible for England to carry on that commerce that gives her riches, power and plenty, and yet abandon her connections with the rest of the world.

Therefore I differ, Sir, in facts and fundamentals with my hon. friend who spoke last. I think England can be no longer England than while she cultivates, cherishes, nay courts, connections with the continent; I am warranted in thinking so by all the experience of past and present times. About the beginning of this century a most expensive war was carried on by England, and her allies reaped more benefit by it than ever she proposed to herself. That war brought her near sixty millions into debt, but, Sir, I cannot think with my hon. friend, that that debt was either uselessly or extravagantly incurred; though I admit that our allies had the chief, or rather the immediate, benefit, from it. It gave us rank, Sir; it gave us credit, it gave us importance all over the world, and the disadvantages we now labour under from our debt, are more than compensated by the many advantages it has brought us. 'The more cost, the more honour' is a maxim that, when applied to a whole people, is not perhaps so very absurd as my hon. friend imagines. Honour, Sir, is credit, and the very best founded credit; and when a people has credit they have every thing; for no people can have credit but from the opinion which the rest of the world entertains of not only their wealth and power, but of their veracity, their justice, and, above all, of their fidelity to their engagements.

I shall not, Sir, enter into any dispute with gentlemen whether we are at present, as a people, in possession of those virtues; but I am free to say, that there was a time when in the opinion of the rest of mankind, we did possess them; and that, Sir, was at the time when continental connections were in the highest vogue, and when the very reverse of the political system that some gentlemen have lately adopted, took place. This, Sir, is a truth that no gentleman can dispute, and every day's experience confirms it.

I ask pardon, Sir, for having taken up so much of your time in a question on which there seems to be no debate, but gentlemen, by their new modelled system, rendered it in a manner necessary for me to give my testimony that I am determined never to depart from the principles of the Revolution, because I look upon them to be the principles of liberty; the principles upon which the rights, the power and riches, of this nation are founded. I am, Sir, as ready as any gentleman in this House to acknowledge the wisdom and the rectitude of the measure now under

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our deliberation; but I think gentlemen have gone out of their way in making their court to the conductors of it; nay, I think our saving expences ought to be the very last, and may be the very worst, of our considerations. Well timed expences, Sir, may be decisive of the quarrel in our favour, and I am so far from starving the cause, that I could with pleasure see an army of 40,000 British troops upon the continent of Europe. Such a step would revive the glory of this nation, that gentlemen have taken so much pains to describe as being in a languishing condition; and, Sir, though it is with great pleasure I give my voice for this treaty, I should with double pleasure give it for any measure that would carry our resentment to the city gates of Paris itself.

The King's Message relating to Admiral Byng's Court Martial.] February 25. Sentence having been passed on admiral Byng, a member of the Court Martial, who was also a member of the House of Commons, (admiral Keppel) stood up in his place, and made application to the House in behalf of himself and some other members of the Court Martial, praying the aid of the legislature to be released from the oath of secrecy imposed upon courts martial, that they might disclose the grounds on which sentence of death had passed on admiral Byng, and perhaps discover such circumstances as might shew the sentence to be improper. Although this application produced no resolution, yet the day following Mr. William Pitt presented, by his majesty's order, the following Message to the Commons:

"GEORGE *R.*

"His majesty, agreeably to his royal word, for the sake of justice, and of example to the discipline of the navy, and for the safety and honour of the nation, was determined to have let the law take its course with relation to admiral Byng, as upon Monday next, and resisted all solicitations to the contrary:

"But being informed, that a member of the House of Commons, who was a member of the court martial which tried the said admiral, has, in his place, applied to the House, in behalf of himself and several other members of the said court, praying the aid of parliament to be released from the oath of secrecy imposed on courts martial, in order to disclose the grounds whereon sentence of death passed on the said admiral, the result of which discovery may shew the sentence to be improper; his majesty has thought fit to respite the execution of the same, in order that there may be an opportunity of knowing by the separate examination of the members of the said court, upon oath, what ground there is for the above suggestion.

"His majesty is determined still to let this sentence be carried into execution, unless it shall appear, from the said examination, that admiral Byng was unjustly condemned. "*G. R.*"

The mention made in this Message of an application being made to this House by a member of the House in his place; was much excepted to in the House; being conceived that it might affect, although not so intended, the privilege of the House, with regard to freedom of speech in their debates and proceedings; and forasmuch as the maintaining of that privilege must ever be of the utmost consequence to the House, the House did direct that a special Entry should be made in the Journal, lest, at any time hereafter, this case should be endeavoured to be drawn into precedent, to the infringement of so important and essential a claim and right of the House.

Proceedings of the Commons on the Bill to release Admiral Byng's Court Martial from the Oath of Secrecy.] In consequence of this Message, a motion was made for bringing in a Bill to release from the obligation of the Oath of Secrecy the members of the Court Martial appointed for the trial of admiral Byng, and Mr. Potter and sir F. Dashwood being ordered to prepare the same, it was accordingly prepared, presented, read, amended, and ordered to be engrossed, all in one day. It met with some opposition from

Mr. *Velters Cornwall*, who said:

Mr. Speaker; It is now some time since I have been able to attend my duty here, and I am sure, by my present appearance, you will judge I had hardly attended to-day, had it not been on this very new and very extraordinary Bill, of which I will first try to state the case, were it merely to be set right, if I do not truly apprehend it.

The law for regulating courts martial by sea, says, that no member of the court shall, after sentence, be at liberty to disclose the reasons on which he voted, unless

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enabled and obliged thereto by act of parliament; and now, Sir, what comes next? Why truly, a member of a late court martial, who is also a member of this House, stands up in his place (a fortnight at least after a late sentence) and declares, that though the court was then unanimous, yet, that himself and several others have now great trouble of mind, which he cannot reveal, as the law now stands. Nothing more is then said or done, but the House proceeds to other business. To-day a message comes from the crown, that his majesty, on hearing what passed in the House, had respited the execution of admiral Byng, to give the parliament time for taking this matter into consideration; and he promises, that execution shall go at the end of that time, unless the legislature shall see cause to the contrary.

And how is this message ushered into the House? A certain gentleman stands up, and says, that he went to the king last night, told him what had passed in the House the day before, and had, in consequence of it, advised his majesty to send this message. And such, Sir, is my opinion of the very honourable gentleman, that I am sure his good-nature must have conquered his prudence, and the pressing instances of friends must for once have got the better of his duty to the House, for according to order, no member ought even to tell his friend what passes in this House; and surely, Sir, one of your own principal members is not to step into the closet the moment we are up, to reveal there an incident of this great importance. But let us see, Sir, how far a conduct like this may go: it divulges not only all our intentions, whilst they are in embryo, to the throne, but such hasty messages may stop, by prorogations or dissolutions, all our schemes under consideration for carrying on government and the public good, and may blunt, if not break, even the sword of impeachment itself, which nobody but ourselves can draw, and which is our only defence against evil and corrupt ministers. But, alas! Mr. Speaker, I am now to say by whom this has been done. The worthy gentleman is in my eye, and sits over against me, and I will do him the justice to say, that I think him the most uncorrupt, as well as the most popular minister we ever had; but, perspicacious as he is, he must suffer his friend, who is only a stander by, to tell him, that the unhappy man, who is the chief object of this message, and of the very absurd Bill in consequence of it, and which is upon full speed here, has demolished one ministry, and will, I now prophesy, overturn another. But if he must be pardoned, (and who ever heard or read of an admiral's being executed?) let his majesty do it by virtue of his royal prerogative, and then the sentence, legal as it is, and the severity of the articles of war, will be no longer so unjustly censured; and since they are, it is impossible for me to sit still, who caused the severity. You, Sir, and many now in the House remember, that I had the honour to move to be in the chair in a former Mediterranean enquiry in the last war, when, if officers had done their duty, millions had been saved, and a much better peace, without any French war, had ensued. And if, from fraternal affection, I may be allowed to connect small things with great, my nearest relation might have been now alive in the service of his country; and the costly and unanimous reward of the legislature had never been so graciously bestowed upon his memory. But how, Sir, will military service be carried on with spirit, unless we shew our officers, that we can punish as well as reward? And though more notorious cowardice than that of Kirkby and Wade under admiral Bembow, appeared in the late war, yet one poor lieutenant was the single scape-goat. And pray, where has been our courage in this? Nothing like it appeared in the person lately tried. We learn, Sir, from the judge advocate's account, the new terms of muzzling, lasquing, and angling; nay, I feel too, that in speaking against the Bill, I must be muzzled, or thought sanguinary, especially as you know, Sir, that I formerly moved to leave out those lenient words in the old Bill; for I saw plainly, that nobody so high as a captain would ever be shot, as long as courts martial had a power to inflict death, or such other punishment as to them should seem meet. And now, truly, the just sentence that is passed on the most flagrant guilt, is interlarded, as we are told, with a desire of mercy, which, on doubts arising in the royal breast, is referred to the judges, who pronounce it legal. What follows? A new twig is catched at; one of the court complains, is repentant, wants a new kind of papal authority to clear up his conscience; and it hurts me much to insist, that this ill-concerted message is built on this sandy and destructive foundation, which you, Sir, have pronounced, *ex cathedra*, to be most new and dangerous, and

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a learned gentleman, very high in the law, told us just now, that the whole was absurd and illegal; nor can I have sat here towards forty years, without knowing it to be unprecedented and unparliamentary; and though there has been no division this whole session, I will divide the House to-night, though the minority should consist of three only, which I once remember to have been the case, and who were then said without doors to have been in the right.

But should this measure be ever so much predetermined here, there is another House that will take nothing for granted, merely because it comes from this, and where no tender-conscienced lord can be the foundation of such a superstructure. Upon the whole, Sir, I trust they will reject the Bill for its novelty and want of evidence, if not for many other expressed and implied reasons, which the managers for the Commons must, on a conference, acknowledge, or quarrel with the other House, which will now be of worse consequence, and full as ridiculous as the clerical and parliamentary disputes amongst oldest and bitterest enemies. So I only repeat what I said before, that if this unhappy man can himself wish to live, let him drag on a miserable life under the all-powerful and too-benign shelter of the royal prerogative.

February 28. The Bill was read a third time, passed, and sent up to the Lords.

*Proceedings of the Lords on the Bill to release Admiral Byng's Court Martial from the Oath of Secrecy.**] The Proceedings of the Lords upon this Bill were printed by order of their lordships, as follows:

The PROCEEDINGS of the Lords spiritual and temporal in parliament assembled, upon the Bill entitled, "An Act to release from the obligation of the Oath of Secrecy, the Members of the Court Martial appointed for the Trial of admiral John Byng, pursuant to the exception contained in the said oath." Together with the EXAMINATIONS of the several members of the said Court Martial, taken upon oath at their lordships' bar.

March 1. A Message was brought from the House of Commons by Mr. Potter and others, with a Bill entitled "An Act to release from the obligation of the Oath of Secrecy, the members of the court martial appointed for the trial of admiral John Byng, pursuant to the exception contained in the said oath:" to which they desire the concurrence of this House.

The said Bill was read the first time, and is as follows, viz.

"An Act to release from the obligation of the Oath of Secrecy, the members of the court martial appointed for the trial of admiral John Byng, pursuant to the exception contained in the said oath.

"Whereas by an act passed in the 22nd year of his majesty's reign, entitled, 'An 'Act for amending, explaining, and re-'ducing into one act of parliament, the 'laws relating to the government of his 'majesty's ships, vessels, and forces by 'sea;' it is enacted, that upon all trials of offenders by court martial, all the officers who are to constitute the same, shall, before they proceed to trial, take an oath, among other things, that they will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the same court martial, unless thereunto required by act of parliament: and whereas admiral John Byng has been, in pursuance of the said law, tried by a court martial, and been sentenced by the same to be shot to death: and whereas application has been made by a member of the said Court Martial, in behalf of himself and several other members of the said Court, praying earnestly to be released by act of parliament from the said part of the said Oath: and alledging that they have something to disclose relative to the said sentence, which greatly affects their own consciences, and which it is necessary should be disclosed, in order to do justice to the said admiral John Byng; Be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for all and

* "It was on this occasion, that a great ornament of the law, who was lately called to the dignity of a peer and of lord chief justice, (Lord Mansfield), displayed that bright genius, for which he has been always celebrated, and, graced as he is with all the power of words, argued the matter with such argument and eloquence combined, that every understanding received a thorough insight into the affair, and was persuaded of the steps to be taken in the debate." Literary Magazine, 1757, p. 37.

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every person and persons, who constituted the said Court Martial appointed to try the said admiral Byng, and they are hereby required, to disclose or discover, upon oath, before his majesty in council, or before a committee thereof, all and every the votes or opinions of any member or members of the said Court Martial; any thing in the oath contained in the act herein before, in part, recited to the contrary thereof notwithstanding.

"Provided always, that nothing in this act contained shall extend to oblige any of the members of the said Court Martial to disclose or discover any matter or thing, other than such as he might voluntarily have disclosed or discovered, in case such member had not taken the said oath of secrecy."

And it being moved, that the said Bill be read a second time to-morrow; after debate, it was ordered, that the said Bill be read a second time to-morrow, and that the Lords be summoned.

Ordered, 1. That a message be sent to the House of Commons, to desire that they will give leave, that the hon. Augustus Keppel, James Douglas, esq. and Peter Dennis, esq. members of that House, may attend this House to-morrow, in order to be examined upon the second reading of the said Bill. 2. That Thomas Smith, esq. vice admiral of the red; Francis Holburne, esq. rear admiral of the red; Harry Norris, esq. rear admiral of the white; Thomas Brodrick, rear admiral of the blue; captain Charles Holmes, captain Francis Geary, captain William Boys, captain John Moore, captain John Simcoe, and captain John Bentley, do attend this House to-morrow, in order to be examined upon the second reading of the said Bill. 3. That such of the judges, as are in town, do attend this House to-morrow upon the second reading of the said Bill.

March 2. The messengers sent to the Commons to desire that they would give leave, that the hon. Augustus Keppel, James Douglas, esq. and Peter Dennis, esq. members of that House, may attend this House, in order to be examined upon the second reading of the Bill, to release from the obligation of the oath of secrecy the members of the Court Martial appointed for the Trial of admiral John Byng, pursuant to the exception contained in the said Oath, acquainted the House, that they had delivered their lordships' message, and that the Commons will send an answer by messengers of their own.

A message was brought from the Commons by Mr. Potter and others, to acquaint this House, that they have given leave to the hon. Augustus Keppel, James Douglas, esq. and Peter Dennis, esq. members of their House, to go to the House of Lords, as is desired by their lordships in their message of this day, if the said members think fit.

The order of the day being read, for the second reading of the Bill, entitled "An Act to release from the obligation of the oath of secrecy the members of the Court Martial appointed for the trial of admiral John Byng, pursuant to the exception contained in the said oath;" and for the attendance of several persons in order to be examined upon the said second reading, and also for the attendance of such of the judges as are in town. The said Bill was accordingly read a second time.

And it being agreed, that the several persons to be examined should be called in separately; and that they should be examined upon oath; and that the questions and answers should be taken down in writing at the bar by the clerk; and also, that the oath of secrecy directed by the act of parliament of the 22nd year of his majesty's reign, to be taken by the members of courts martial held by virtue of that act, should be read to each of them before he should be examined.

Vice admiral *Thomas Smith* was called in and sworn at the bar, and the said oath of secrecy was read to him, as follows:

"I A. B. do swear, that I will duly administer justice, according to the articles and orders established by an act passed in the 22nd year of the reign of his majesty king George the 2nd, for amending, explaining, and reducing into one act of parliament, the laws relative to the government of his majesty's ships, vessels, and forces by sea, without partiality, favour, or affection; and if any case shall arise, which is not particularly mentioned in the said articles and orders, I will duly administer justice according to my conscience, the best of my understanding, and the custom of the navy in the like cases; and I do farther swear, that I will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court martial, unless thereunto required by act of parliament. So help me God."

It was moved, that the twelfth article

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in the said act of the 22nd of his majesty's reign might be read, and the same was read accordingly.

Then it was proposed that vice admiral Smith should be asked, whether he now thinks, or, as far as he can recollect, ever did think, that he could have applied any part of that article to a man, whose conduct he thought proceeded from error of judgment only. Which being objected to. The vice admiral was directed to withdraw.

After debate, the question being waved for that time, the vice admiral was called in again, and asked,

Q. Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—A. Indeed, I do not.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—Indeed, I do not.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—As for myself, I have no desire of it; but if it will be a relief to the consciences of any of my brethren, it will not be disagreeable to me.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I have not, indeed, farther than as I wrote, what seemed to be at that time the sense of the whole court, to a right hon. member of this House (lord Lyttleton) signifying that, if it was necessary, the members would willingly attend, to set forth the reasons that induced them to recommend him to his majesty's mercy.

Whether you think yourself restrained, by your oath of secrecy, from laying before his majesty those matters, for inducing his majesty's mercy, which are mentioned, or referred to, in that letter to my lord Lyttleton?—As the sentence, and application for his majesty's mercy, were the unanimous resolutions of the court, I apprehend, that I am at liberty to give the reasons why I requested that mercy.

He was directed to withdraw.

Rear Admiral *Francis Holburne* was called in, and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No, my lords.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No, my lords.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No, my lords.

He was directed to withdraw.

Rear Admiral *Harry Norris* was called in, and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—I beg to be excused answering to that question, while I am under the oath of secrecy.

The following question was proposed to be put to him, viz. Whether you have any matter to disclose, that would shew the sentence to be unjust, if you was released from the oath of secrecy? Which being objected to, he was directed to withdraw. After debate, he was called in again, and asked the said question, viz.

Whether you have any matter to disclose, that would shew the sentence to be unjust, if you was released from the oath of secrecy?—No.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—Yes.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary

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for his majesty's information, and which you think likely to incline his majesty to mercy?—I must beg leave not to answer to that question.

He was directed to withdraw.

Rear Admiral *Thomas Brodrick* was called in, and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you knew any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No, my lords, upon my honour.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No, my lords.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No, my lords.

He was directed to withdraw.

Captain *Charles Holmes* was called in, and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—I know of none.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—I know of none.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—I do not desire it should.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I know nothing more, but the sentence and the letter, which all the gentlemen signed to the admiralty.

The House being informed, that rear admiral Norris was willing to answer to the last question that was asked him, when he was at the bar before, and which he then declined answering. The said rear admiral was called in again, and asked the said question, viz.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—At the time I said I was desirous the act should take place, I understood that we should have an opportunity of delivering our particular reasons for signing the sentence and letter of recommendation.

He was directed to withdraw.

Captain *Francis Geary* was called in, and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No, my lords.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No, my lords; but I have no objection, if it will be to the satisfaction of any person.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No, my lords; nothing, but what I have signed to, by the sentence and letter of recommendation.

Whether if the act was passed, you could better explain that sentence and letter than you are now able?—My oath of secrecy will not permit me to say any more.

Whether you think by your oath of secrecy, you are restrained from disclosing any thing, but the vote and opinion of the members?—I am one of the members, and I humbly beg leave to think it my own opinion.

Captain *William Boys* was called in,

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and sworn at the bar; and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust? —No, my lords, I do not.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords, I do not.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No, my lords, I do not.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No, my lords, I have not.

Captain *John Moore* was called in, and sworn at the bar, and the oath of secrecy was read to him as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No, my lords.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—I am very desirous that it should, that I might be absolved from the oath; I have been under great concern when I have taken the oath; I do not mean upon this trial.

Whether you are of opinion that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I do not think myself at liberty, while I am under this oath, to answer that question.

Whether if this Bill was passed, you could better explain the sentence, and letter of recommendation, than you are now able?—I could give better information what were my motives for signing that sentence and letter.

Captain *John Simcoe* was called in and sworn at the bar, and the oath of secrecy was read to him as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—I know of none, my lords.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—Not in the least, my lords.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—I have no such desire, my lords.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I have not, my lords.

Captain *James Douglas* was called in and sworn at the bar; and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No, my lords, I do not.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No, my lords, I do not.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No, my lords, I do not.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I have not, my lords.

Captain *John Bentley* was called in and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pro-

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nounced upon admiral Byng, which may shew that sentence to have been unjust?—No, I know of none.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—None at all.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No.

The hon. *Augustus Keppel* was called in and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—No.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—Yes, undoubtedly.

Whether you are of opinion that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—I think that I cannot answer that question without particularizing the reasons for my vote and opinion.

Do you understand that these particular reasons are asked now?—No.

Captain *Peter Dennis* was called in and sworn at the bar, and the oath of secrecy was read to him, as before. And then he was asked,

Whether you know any matter that passed, previous to the sentence pronounced upon admiral Byng, which may shew that sentence to have been unjust?—None at all.

Whether you know any matter that passed, previous to the said sentence, which may shew that sentence to have been given through any undue practice or motive?—No.

Whether you are desirous that the Bill, now under the consideration of the House, for dispensing with the oath of secrecy, should pass into a law?—No.

Whether you are of opinion, that you have any particulars to reveal, relative to the case of, and the sentence passed upon admiral Byng, which you judge necessary for his majesty's information, and which you think likely to incline his majesty to mercy?—No.

Then the said several examinations were read by the clerk. And it being moved to reject the said Bill,

Ordered, that the said Bill be rejected. Also, that the said Bill, and the proceedings of this House relating thereto, together with the examination of the several members of the court martial, taken upon oath at the bar, be forthwith printed and published.

In the debates which arose during the progress of the examination, it was observed, that as this Bill released the members of the court martial from their oath of secrecy, only so far as related to any discovery they might think fit to make before his majesty in council, or a committee thereof, the passing of the Bill could not possibly be attended with any mischief; and, therefore, if any one member of the court martial had, for the sake of conscience, desired to be so far released from his oath of secrecy, as to enable him to declare to his majesty what he thought might procure mercy to a prisoner whom he, by mistaking the law, had condemned to die, the Bill, for the sake of that one member, as well as for the sake of mercy, ought to be passed, and much rather when it was desired by three or four of the members, and when all the members recommended the prisoner to mercy, at the very time they condemned him to die.

This argument was farther enforced by adding as follows: That the severe sentence of the court martial plainly appeared to have been founded upon their mistaking the meaning of the word 'negligence' in the 12th and 13th articles of war; for negligence, like the *culpa* of the Romans, admits of several degrees; and, as death is by these two articles inflicted absolutely upon it, they must mean a great and wilful negligence, and not that sort of negli-

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gence which proceeds from accidental non-attention, or human weakness, or from not having a greater share of that virtue called presence of mind, than commonly falls to the share of mankind; as this is a sort of negligence which the bravest and most experienced commander may be guilty of, nay, which every commander has, upon some occasion or other, been guilty of; a sort of negligence which the brave Bembow was guilty of, and by which he lost his life, as well as the victory; for when he saw that Kirby and Wade kept back, and did not come into the engagement, he might (and ought, as before his death he confessed) have sent orders to the lieutenants to take the command of the ships, and confine their captains. Such a negligence, therefore, may be called misconduct, but it cannot be called such a criminal negligence as is meant in these two articles of war; otherwise, no commander can ever secure himself from being shot for negligence, if he happens to be tried by men who think differently from what he did during the engagement: and critics of all kinds generally think in a very different manner from the man whose conduct, or performance, they are to criticise.

If the members of this court martial thought, that by the word negligence, in these two articles of war, was meant the least, the most excusable sort of negligence, they put a wrong interpretation upon the word, a meaning that the law never intended; and that they did so, is evident by their unanimously recommending the prisoner to mercy, after having unanimously freed him from any imputation of cowardice or disaffection; and, if they thought they could inflict no punishment upon him but death, they certainly mistook their power. It is true, after having voted, that the prisoner had fallen under the 12th article of war, they could not inflict any other punishment than that of death; but if they had said, in the 33d resolution, that admiral Byng did not, through misconduct, do his utmost to relieve St. Philip's Castle, &c. and, in the 34th article, that admiral Byng did not, through misconduct, do his utmost to take, seize, &c. they could not have voted, that he had fallen under that article, but might have voted, that, from his misconduct, he appeared to be incapable of any command in his majesty's navy, and consequently might have inflicted what punishment they thought fit.

But, it seems, the gentlemen thought, that they were as much tied down to the letter of the law as our common law-courts are in civil affairs, not knowing, or having been informed, that by our law there is a very great difference between civil and criminal affairs: in civil affairs we make a distinction between justice and equity; and, in consequence of that distinction, our common law-courts are obliged, in most cases, to determine according to the rigour of the law; but, as we have adopted the maxim, adopted by all nations, that the rigour of the law may often be injurious, 'summum jus est summa injuria,' therefore we have established a court of equity, where a person injured by the rigour of the law may be relieved upon application. This is the case with respect to all proceedings in civil affairs; but in criminal affairs we have no distinction between justice and equity, nor any court of equity to grant relief to any person injuriously condemned according to the rigour of the law; therefore, in the trial of crimes, even our common law-courts have, in many cases, departed from the rigour of the common law, or the letter of the statute; and, by adopting the humane maxim, that penal statutes ought to be construed favourably for the subject, they have made themselves a court of equity as well as justice; and, if our common law-courts have done so, surely our courts martial ought much rather to do so: they ought to consider, that, though in civil affairs no judgment can be called unjust that is according to law, notwithstanding its being so very far from being equitable, that the person against whom it was passed would certainly be relieved by an application to a court of equity; yet in criminal trials, a sentence according to strict law must be unjust, if the court ought to have put an equitable construction upon the law: and, if this had been duly considered, perhaps few of this court martial would have answered to the first question in the manner they did; for it was certainly never meant to punish the least oversight, in a sea-officer, with death; consequently, according to the aforesaid humane maxim, established in all criminal cases, they ought, they were in conscience obliged, to put an equitable construction upon the statute, and not agree to any resolution that might lead towards their declaring, that the prisoner had fallen under the 12th article of war; which, indeed, is not plainly and expressly done by any of the previous resolutions; and therefore

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the 33d and 34th resolutions may justly be said to be a little captious; for an officer does not fall under that article of war by not doing his utmost to destroy an enemy, or assist a friend, unless it can be justly said, that he failed doing so through cowardice, negligence, or disaffection.

Lastly, it was said, that though it appeared from the trial that the members of the court martial were unanimous in their votes upon all the material resolutions they had agreed to, yet the several members might have had very different reasons for their way of voting. A member's vote consists in his pronouncing the single monosyllable, yes, or no; but his opinion consists in the reasons he gave for that yes, or no; and those reasons no member could, consistently with his oath of secrecy, disclose, without an act of parliament, because by that oath he swears not to disclose or discover, the vote, or opinion, of any particular member, unless thereunto required by act of parliament. Those reasons, if explained, might have inclined his majesty to mercy: but this no member of the court martial had a right to inquire into, or could possibly judge of; and, therefore, the 4th question, before mentioned, seemed to be of no signification: at least, their declaring, in answer thereunto, that they had no particulars to reveal, which they thought likely to incline his majesty to mercy, could not be an argument, with any lord, for rejecting the Bill; because, if all the particulars had been revealed, his majesty might have thought in a very different manner from what they did.—This is the substance of what was said during the debates upon the Bill.*

Resolutions of the Commons relating to the Loss of Minorca.] May 3. Mr. Potter reported from the Committee of the whole House, to whom it was referred to consider of the several papers and accounts, presented to the House, relating to intelligence concerning the motions or designs of the French, to preparations made, and orders given, for the equipment or sailing of any of his majesty's ships of war, or for the defence of any of his majesty's dominions in the Mediterranean, and to the state and condition of his majesty's navy, and of the island of Minorca, during the years 1755 and 1756, the Resolutions which the Committee had directed him to report to the House; which he read in his place, and are as follow:

Resolved, That it appears to this Committee, 1. That his majesty, from the 27th August 1755, to the 20th April 1756, received such repeated and concurrent intelligence, as gave just reason to believe that the French king intended to invade his majesty's dominions of Great Britain or Ireland.—2. That his majesty received repeated and concurrent intelligence, from August 1755, to April 1756, that, with intent to invade his majesty's dominions, great numbers of troops were marched from the interior parts of France to the coasts of Picardy, Normandy, and Britanny, great quantities of provisions, artillery, and warlike stores, collected, and numbers of vessels, for the transportation of soldiers, assembled in the ports of France, opposite to the coasts of this kingdom.—3. That in the months of September, October, November, and December 1755, his majesty received various, repeated, and concurrent advices of the

* "Of all the transactions that distinguished this year, the most extraordinary was the sentence executed on admiral Byng, the son of that great officer who had acquired such honour by his naval exploits in the preceding reign, and was ennobled for his services by the title of viscount Torrington. His second son, John Byng, had from his earliest youth been trained to his father's profession; and was generally esteemed one of the best officers in the navy, when he embarked in that expedition to Minorca, which covered his character with disgrace, and even exposed him to all the horrors of an ignominious death. On the 28th of December his trial began before a court-martial, held on board the ship St. George, in the harbour of Portsmouth, to which place Mr. Byng had been conveyed from Greenwich by a party of horse-guards, and insulted by the populace in every town and village through which he passed. The court having proceeded to examine the evidences for the crown and the prisoner, from day to day, in the course of a long sitting, agreed unanimously to 37 resolutions, implying their opinion, that admiral Byng, during the engagement between the British and French fleets, on the 20th of May last, did not do his utmost endeavour to take, seize, and destroy the ships of the French king, which it was his duty to have engaged, and to assist such of his majesty's ships as were engaged, which it was his duty to have assisted; and that he did not exert his utmost power for the relief of St. Philip's-castle. They, therefore, unanimously agreed, that he fell under part of the 12th article of an act of parliament passed in the 22nd of the present reign, for amending, explaining, and reducing into one act of parliament, the laws relating to the government of his majesty's ships, vessels, and

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actual equipping of a squadron of 12 ships of the line, besides frigates, at Toulon: and that the said armament would at latest be ready to sail very early in the spring 1756.—4. That on the 4th of February 1756, in a letter from Mr. Consul Birtles, dated Genoa, 17th January 1756, his majesty received advice of an intention to surprize the island of Minorca, which was confirmed by many subsequent advices of the actual destination of the said armament against the said island, received in the

forces by sea; and as that article positively prescribed death, without any alternative left to the discretion of the court under any variation of circumstances, they unanimously adjudged the said admiral John Byng to be shot to death, at such time, and on board of such ship, as the lords commissioners of the admiralty should please to direct. But as it appeared, by the evidence of the officers who were near the admiral's person, that no backwardness was perceivable in him during the action, nor any mark of fear or confusion either in his countenance or behaviour; but that he delivered his orders coolly and distinctly, without seeming deficient in personal courage; and, from other circumstances, they believed his misconduct did not arise either from cowardice or disaffection, they unanimously and earnestly recommended him as a proper object of mercy. The admiral himself behaved through the whole trial with the most cheerful composure, seemingly the effect of conscious innocence, upon which, perhaps, he too much relied. Even after he had heard the evidence examined against him, and finished his own defence, he laid his account in being honourably acquitted; and ordered his coach to be ready for conveying him directly from the tribunal to London. A gentleman, his friend, by whom he was attended, having received intimation of the sentence to be pronounced, thought it his duty to prepare him for the occasion, that he might summon all his fortitude to his assistance, and accordingly made him acquainted with the information he had received. The admiral gave tokens of surprise and resentment, but betrayed no marks of fear or disorder, either then or in the court when the sentence was pronounced. On the contrary, while divers members of the court-martial manifested grief, anxiety, and trepidation, shedding tears, and sighing with extraordinary emotion, he heard his doom denounced without undergoing the least alteration of feature, and made a low obeisance to the president and the other members of the court, as he retired.

"The officers who composed this tribunal were so sensible of the law's severity, that they unanimously subscribed a letter to the board of admiralty, containing this remarkable paragraph: 'We cannot help laying the distresses 'of our minds before your lordships on this occasion, in finding ourselves under necessity of 'condemning a man to death, from the great 'severity of the 12th article of war, part of 'which he falls under, which admits of no 'mitigation if the crime should be committed 'by an error in judgment; and, therefore, for 'our own consciences sake, as well as in justice to the prisoner, we pray your lordships, 'in the most earnest manner, to recommend 'him to his majesty's clemency.' The lords of the admiralty, instead of complying with the request of the court-martial, transmitted their letter to the king, with copies of their proceedings, and a letter from themselves to his majesty, specifying a doubt with regard to the legality of the sentence, as the crime of negligence, for which the admiral had been condemned, was not expressed in any part of the proceedings. At the same time, copies of two petitions from lord Torrington, in behalf of his kinsman, were submitted to his majesty's royal wisdom and determination. All the friends and relations of the unhappy convict employed and exerted their influence and interest for his pardon; and, as the circumstances had appeared so strong in his favour, it was supposed that the sceptre of royal mercy would be extended for his preservation: but infamous arts were used to whet the savage appetite of the populace for blood. The cry of vengeance was loud throughout the land: sullen clouds of suspicion and malevolence interposing, were said to obstruct the genial beams of the best virtue that adorns the throne; and the sovereign was given to understand, that the execution of admiral Byng was a victim absolutely necessary to appease the fury of the people. His majesty, in consequence of the representation made by the lords of the admiralty, referred the sentence to the consideration of the twelve judges, who were unanimously of opinion that the sentence was legal. This report being transmitted from the privy-council to the admiralty, their lordships issued a warrant for executing the sentence of death on the 28th of February. One gentleman at the board, however, refused to subscribe the warrant. Though mercy was denied to the criminal, the crown seemed determined to do nothing that should be thought inconsistent with law. A member of parliament, who had sat upon the court-martial at Portsmouth, rose up in his place, &c. [See the proceedings above.]

"The unfortunate admiral being thus abandoned to the stroke of justice, prepared himself for death with resignation and tranquillity. He maintained a surprising cheerfulness to the last; nor did he, from his condemnation to his execution, exhibit the least sign of impatience or apprehension. During that interval he had remained on board of the Monarque, a third-rate ship of war, anchored in the harbour of Portsmouth, under a strong guard, in the custody of the marshal of the admiralty. On the 14th of March, the day fixed for his execution, the boats belonging to the squadron at Spithead

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month of February 1756.—5. That his majesty received repeated and concurrent intelligence, that the Toulon squadron, which sailed to Minorca, consisting of 12 ships of the line, was ill provided with men and guns.—6. That his majesty, between the 30th January 1756, and the 6th March 1756, received intelligence, that there was fitted, and fitting for the sea, at Brest and Rochfort, a squadron of 17 ships of the line, which, by intelligence received the 7th March 1756, was to be augmented to 22 ships of the line, some of which were to be fitted out for transporting troops; and by farther intelligence received, of the 31st March 1756, was increased to 23 ships of the line, exclusive of 3 ships of the line said to be destined for America.—7. That sir Edward Hawke received orders to sail on the 27th February 1756, and actually sailed on the 12th March following, on a cruize to the westward, with a squadron of 14 ships of the line: which squadron, under the command of sir Edward Hawke, was, on the 1st April 1756, ordered to be reinforced with 5 ships of the line under rear admiral Holbourne.—8. That on the 8th March 1756, orders were given by the Commissioners of the Admiralty to get ready ten ships of the line for the Mediterranean; and, on the 11th March 1756, orders were given by the Commissioners of the Admiralty to admiral Byng, to take the said ten ships of the line under his command, and fit them for the sea as soon as possible; and, on the 27th March 1756, the Commissioners of the Admiralty were ordered to send ten ships of the line to the island of Minorca; which ships sailed on the 6th April following; which ten ships, at their sailing, were fully manned, including the royal regiment of fusileers sent on board to serve as part of their complement, and which was ordered to be landed at Minorca, in case the governor, or commander in chief of the island, should think it necessary for its defence; and, as appears by a letter from the said admiral to the said Commissioners, were, in every respect, ready for sailing.—9. That on the 1st April 1756, there were 27 of his majesty's ships of the line cruising on the following services; that is to say, 14 ships of the line cruising between Brest and Rochfort, under the command of sir Edw. Hawke; 5 more of the line ordered, under the command of admiral Holbourne, to join sir Edw. Hawke; one between Cape Clear and Scilly; one between Scilly and Ushant; two off the Isle of Bass; one off Cape Barfleur; two in the Downs, under the command of admiral Smith, and one at Cork; and 28 sail of the line in commission at home; that is to say, 17 fitted for sea, ten fitting, and one in harbour service; all which were exclusive of the squadron under the command of admiral Byng, then under orders to sail immediately for the Mediterranean; and that the complement of the said 28 ships of the line at home amounted to 14,040 men; and that there were borne upon the said ship's books 9,891 men, and 7,249 mustered.—10. That on the 1st April 1756, there were 45 frigates, sloops, and armed ships, cruizing on the following stations; that is to say, three under sir Edw. Hawke, one off Brest, two off the Isle of Bass, four off Cape Barfleur, 14 under admiral Smith, two at Dublin, one at Greenock, one at Whitehaven, two at Liverpool, two in King Road, one at Biddeford, one at Falmouth, one at Exmouth, one at Yarmouth, one at Lynn, one in the Humber, one at Newcastle, one at Leith, one at Sheerness, going to Leith, three convoys to Stadht, one convoy from Ostend, and then ordered to the Downs; and there were at home 17 frigates, sloops, and yachts, fitted and fitting for sea; the complements of which 17 amounted to 2,405 men, of which 1,508 were borne and 1,320 mustered.—11. That it appears by the last returns from Minorca, before the siege, bearing date the 31st July 1755, that the garrison of Fort

being manned and armed, containing their captains and officers, with a detachment of marines, attended this solemnity in the harbour, which was also crowded with an infinite number of other boats and vessels filled with spectators. About noon, the admiral having taken leave of a clergyman, and two friends who accompanied him, walked out of the great cabin to the quarter-deck, where two files of marines were ready to execute the sentence. He advanced with a firm deliberate step, a composed and resolute countenance, and resolved to suffer with his face uncovered, until his friends, representing that his looks would possibly intimidate the soldiers, and prevent their taking aim properly, he submitted to their request, threw his hat on the deck, kneeled on a cushion, tied one white handkerchief over his eyes, and dropped the other as a signal for his executioners, who fired a volley so decisive, that five balls passed through his body, and he dropped down dead in an instant. The time in which this tragedy was acted, from his walking out of the cabin to his being deposited in the coffin, did not exceed three minutes." Smollett.

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St. Philip's consisted of 2,860 men, officers included; and that, on the first of February 1756, there were 35 military officers absent from their duty, including the governor and commander in chief of the island, the governor of Fort St. Philip's, and the colonels of the four regiments in garrison there, the governor of the island being otherwise employed in his majesty's service, the governor of Fort St. Philip's disabled by age and infirmities, 19 second lieutenants and ensigns appointed between the 1st October 1755 and 4th January 1756, and nine officers employed in the recruiting service in Great Britain.—12. That major general Stuart, did in Nov. 1755, receive orders from his majesty to repair to Minorca, in order to be assistant to lieut. general Blakeney, then commanding his majesty's forces in that island; and that on the 3d February following, the colonels of the several regiments, then in Minorca, received an order from his majesty, to send all the absent officers of their respective regiments to duty there, except such as it should be necessary to keep in Great Britain on the recruiting service.—13. That on the 28th March 1756, a detachment, with proper officers, equal to a battalion, was ordered to be sent from Gibraltar, to be landed for the relief of Minorca.—14. That on the 30th March 1756, orders were given for raising a company of miners, consisting of 200 men; and, on the 7th May 1756, directions were given for sending three more battalions for the reinforcement of the garrison of Fort St. Philip's.—15. That the squadron of his majesty's ships in the Mediterranean, in December 1755, consisted of one ship of 60 guns, two of 50, four frigates, and one sloop: and that the garrison of Fort St. Philip's, in the said month according to the last returns, made 31st July 1755, consisted of 2,860 men, officers included; and that it doth appear, that no greater number of ships of war could be sent into the Mediterranean than were sent on the 6th April 1756, nor any greater reinforcement than the regiment which was sent, and the detachment equal to a battalion, which was ordered to the relief of Fort St. Philip's, consistently with the state of the navy, and the various services essential to the safety of his majesty's dominions, and the interest of his subjects.

The said Resolutions were agreed to by the House.

The King's Speech at the Close of the Session.] July 4. His majesty put an end to the session with the following Speech:

"My Lords and Gentlemen;

"After so long and diligent an attendance upon the public business, it is time that I should give you some recess. But I cannot put an end to the session, without expressing my entire satisfaction in the many proofs I have received of your zeal and affection for my person and government, and for your unfeigned concern for my honour and real support.

"The succour and preservation of my dominions in America have been my constant care. And, next to the security of my kingdoms, they shall continue to be my great and principal object: and I have taken such measures, as I trust, by the blessing of God, may effectually disappoint the designs of my enemies in those parts.

"I have had no other view, but to vindicate the just rights of my crown and subjects from the most injurious encroachments; to preserve tranquillity, as far as the circumstances of things might admit; and to prevent our true friends, and the liberties of Europe, from being oppressed or endangered by any unprovoked and unnatural conjunction.

"Gentlemen of the House of Commons;

"I thank you for the large supplies which you have so cheerfully and unanimously given me. It affords me great pleasure, that the frugal use made of the confidence reposed in me the last year, has been an inducement to you to renew the same; and you may be assured, that it shall be applied only to the purposes for which it was intended.

"I shall be particularly attentive to reduce all unnecessary expences, in order the better to provide for the great and requisite services of the war.

"My Lords and Gentlemen;

"I have nothing to desire of you, but what is equally essential to your own interest, and to my service. Let it be your constant endeavour to promote harmony and good agreement among my faithful subjects; that, by our union at home, we may be the better able to repel and frustrate abroad the dangerous designs of the enemies of my crown."

The parliament was then prorogued to the 11th of August: and was afterwards farther prorogued to the 1st of December.

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FIFTH SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] Dec. 1, 1757. The King opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"It would have given me the greatest pleasure to have acquainted you, at the opening of this session, that our success in carrying on the war had been equal to the justice of our cause, and the extent and vigour of the measures formed for that purpose.

"I have the firmest confidence, that the spirit and bravery of this nation, so renowned in all times, and which have formerly surmounted so many difficulties, are not to be abated by some disappointments. These, I trust, by the blessing of God, and your zeal and ardour for my honour, and the welfare of your country, may be retrieved. It is my fixt resolution to apply my utmost efforts for the security of my kingdoms, and for the recovery and protection of the possessions and rights of my crown and subjects in America, and elsewhere; as well by the strongest exertion of our naval force, as by all other methods. Another great object, which I have at heart, is the preservation of the Protestant religion, and the liberties of Europe; and in that view, to adhere to, and encourage my allies.

"For this cause, I shall decline no inconveniences; and, in this cause, I earnestly desire your hearty concurrence, and vigorous assistance. The late signal success in Germany has given a happy turn to affairs, which it is incumbent upon us to improve; and, in this critical conjuncture, the eyes of all Europe are upon you. In particular, I must recommend it to you, that my good brother and ally, the king of Prussia, may be supported in such a manner as his magnanimity and active zeal for the common cause deserve.

"Gentlemen of the House of Commons;

"It gives me the utmost concern, that the large supplies which you have already granted for carrying on the war, have not produced all the good effects we had reason to hope for; but I have so great a reliance upon your wisdom, as not to doubt of your perseverance. I only desire such supplies as shall be necessary for the public service; and, to that end, have ordered the proper estimates to be laid before you. You may depend upon it, that the best and most faithful œconomy shall be used.

"My Lords and Gentlemen;

"I have had such ample experience of the loyalty and good affections of my faithful subjects towards me, my family, and government, in all circumstances, that I am confident they are not to be shaken: But I cannot avoid taking notice of that spirit of disorder, which has shewn itself amongst the common people, in some parts of the kingdom. Let me recommend it to you, to do your part in discouraging and suppressing such abuses, and for maintaining the laws, and lawful authority. If any thing shall be found wanting, to explain or enforce what may have been misunderstood or misrepresented, I am persuaded it will not escape your attention.

"Nothing can be so conducive to the defence of all that is dear to us, as well as for reducing our enemies to reason, as union and harmony amongst ourselves."

The Lords' Address of Thanks.] His majesty having retired,

The Earl of Northumberland moved the following Address, which being seconded by the earl of Pomfret, was agreed to:

"Most Gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks, for your most gracious Speech from the throne.

"The concern which you are pleased to express, for the disappointments that have unhappily attended some of the measures formed by your majesty this year, for carrying on the just war in which we are engaged, is a fresh mark of your paternal regard for the welfare of your people, and for the glory of this kingdom.

"The testimony which your majesty has at the same time given to the spirit and bravery of this nation, and to the ardent zeal of your parliament to retrieve these misfortunes, is a proof of the justice done by your royal mind to our principles and sentiments, and the greatest encouragement to persevere in them.

"Affected therefore as we are with

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these events, we are not discouraged; but we sincerely promise your majesty our hearty concurrence, and most vigorous assistance, in accomplishing, under the protection of the Divine Providence, your wise and gracious intentions for our defence and safety at home, and for recovering and securing the rights and possessions of your crown and subjects in America and elsewhere, particularly by the utmost exertion of that essential part of our strength, your naval force.

"The preservation of the Protestant religion and the liberties of Europe are objects never to be forgotten by us. Of this pure religion, and these invaluable liberties, Great Britain has in all times been a principal bulwark; and cannot fail to continue so, under your majesty's auspicious reign.

"As the late signal success in Germany fills us with unfeigned joy, so it animates our hopes to see this glorious cause revive; and we do, with equal thankfulness and satisfaction, acknowledge your majesty's generous declaration, that, for the sake of it, you will decline no inconveniences.

"To defend your majesty against all your enemies, to support your honour and real interests, and to strengthen your hands, are our indispensible duty. It shall also be our endeavour, to improve this success to the most useful purposes; and to exert ourselves in supporting your good ally the king of Prussia, whose magnanimity and unexampled firmness are so evident to all the world, and of such great utility to the common cause.

"We have seen, with the utmost abhorrence, that spirit of disorder and riot which has shewn itself of late amongst the common people; we are sensible that it is inconsistent with all government, and necessary to be reformed and suppressed; nothing shall be wanting on our part, for this salutary purpose, and to enforce and add strength to the laws and lawful authority, on which the liberty and property of the meanest as well as of the chief of your subjects depend.

"Your majesty's kind admonition, of the necessity of union and harmony amongst ourselves, is highly worthy the common father of your people: we will always have it before our eyes; and we give your majesty the strongest assurances, that our loyalty and good affections to your majesty and your royal family, of which we have on all occasions given real proofs, are never to be shaken or diminished. The preservation of your sacred person, the stability of your government, and the continuance of the Protestant succession in your illustrious House, will ever be most dear to us, and essential to the happiness of all your people."

The King's Answer.] To which Address the King returned this Answer:

"My Lords;

"Nothing could possibly give me greater satisfaction than this very dutiful and affectionate Address. I heartily thank you for it; and make no doubt but the zeal and vigour which you so seasonably express, in this critical conjuncture, will have the best effects both at home and abroad."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House,

Lord *Royston** rose and said:

Mr. Speaker; the speech lays before us many points of the highest moment, and in compliance with the long established usage of parliaments, I rise up and submit with great deference to the consideration of the House, some words by which we may convey to the crown those assurances of duty and support, which every man's own breast must tell him the occasion requires.

It is a common introduction to motions of this kind, to display the importance of the conjuncture, and the expectations of the public, which arise out of it; never less necessary to urge those motives for deliberation than now, when the events that have passed since we last met, and the mere view of our situation at home and abroad, of themselves bespeak our attention more powerfully than words can excite it.

The war we are engaged in, entered into with universal concurrence, for interests the most essential to this country, the protection of its colonies, and the removing those encroachments which had been made upon them. From the turn which affairs have taken, it is become a struggle, if not for our independency as a free, and a Protestant people, yet cer-

* Philip Yorke, eldest son of lord chancellor Hardwicke. The above Speech is copied from the original, in his lordship's handwriting.

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tainly for our significancy and figure as a powerful, a respected nation.

The House wants not to be informed, that two great plans had been projected for the last summer, the best calculated to annoy the enemy, and to bring this important contest to a speedy decision, the one, the attack of Quebec or Louisbourg, the other, the destruction of the naval arsenals and shipping at Rochefort. The wisdom of government had proportioned the means of execution, to the ends which they wished to attain, and this makes the expression used by his majesty of disappointments, particularly applicable to the failure of both these expeditions.

To judge of the extent of the measures, it will be necessary to take a view of the strength employed in each; lord Loudon had in July last, when the troops from Cork had joined him, upwards of 20,000 under his orders, on the continent of North America, between 10 and 11,000 of which were under his lordship's immediate command at Halifax, besides the garrison of Nova Scotia, which consisted of near 3,000 more. The squadron under admiral Holborne was composed in his first cruize off Louisbourg, of 17 ships of the line, and was further reinforced in September with 4 more, in all 21. Our expectations have notwithstanding been frustrated, partly by the hand of Providence in Mr. Holborne's detention for six weeks at St. Helens, and partly by the difficulties with which it was apprehended the attack of Louisbourg, strengthened as it was from old France, would be attended. Thus a second summer of inaction has been added (unfortunately for this country after so great an effort), to one unfortunate campaign in North America.

In turning our eyes to the plan of war for this part of the world, it is right to mention one particular circumstance which favoured the formation of it. The French by marching two such considerable armies into Germany, had left their coasts but weakly guarded, and we having completed such large augmentations in our own corps, were powerfully armed at home, and could spare troops for offence. It was therefore wise in government to aim some blow, which should give credit to our councils, lustre to our arms, and be felt by our enemies.

These requisites were happily united in the design against Rochefort; the place itself one of the great establishments of Louis the 14th, 9 or 10 of their capital ships laid up there in time of peace, the arsenal, foundery, and magazines, as complete and considerable as any in France, from its situation to the westward, and the particular utility which it affords to the naval departments at Brest, the destruction of the stores, docks, and shipping of Rochefort, would have been a service to this country, which years would not have effaced the good effects of, and a detriment to France which years would not have repaired.

The preparations by land and by sea for this expedition were equal to the object, near 10,000 men, (marines included) were applicable to the service on shore, amongst them 10 old battalions, 16 or 17 capital ships of war, besides frigates and bomb ketches.

When we had so many reasons to hope for success, from an armament, the secret of whose destination was remarkably well kept, and which when it sailed, did certainly spread terror along the French coasts, it is a particular concern to me, that in speaking to it at this time, I can only lament the unhappy and unexpected failure of it.

Notwithstanding these disagreeable events, the king with a greatness of mind becoming the father of his people, tells us not to despond. The noble testimony which his majesty has given to the spirit and bravery of this nation, is sufficient to inspire that spirit which he applauds, and with the wisdom of an experienced prince, he points out to us the only methods of retrieving our affairs, first, by attending to our own security and exerting our naval force, and then by adhering to, and encouraging our allies, more especially as with a firmness worthy himself, he has declared that, in this cause, he will decline no inconveniences. In return it will become us to decline no seasonable support.

It is with the greatest satisfaction I take notice of that part of his majesty's speech, in which he recommends to us the effectual support of the king of Prussia, our able and active ally, the defender of the Protestant cause in Germany, from the combined attacks of the great Popish powers on this side of Europe; too much cannot be said in his commendation; as difficult to exhaust, as to do justice to the subject.

He unites in his character all the qualities which have adorned the greatest princes in those parts of the world, the

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magnanimity and military skill of Gustavus Adolphus, the political genius and resources of his great grandfather Frederic William, with a penetration and quickness peculiar to himself. View him through the whole course of this campaign; at the opening of it carrying all before him with a torrent of prosperity, owing to his own well planned and well executed disposition; receiving from an excess of confidence in troops which deserved the highest, a severe check, confessing the error, improving by it, and recovering from the consequences of it, in a manner that has astonished Europe, by gaining an advantage, which must in a particular degree recommend him to this country, the giving such a blow to the arms of France, as they have scarce received since the great battles of queen Anne's war. Look over the list of prisoners taken at Rosbach, it puts one in mind of Hochstet and Ramillies.

As we are happily connected with such an ally, let it be our part to strengthen and cement that union, by all the means in our power. We may be assured that whatever we shall furnish towards his support, will not be spent idly and unprofitably.

I shall think it fortunate for this country, if, by keeping up a diversion to France on the continent, we can prevent her whole weight from falling upon us, and our humiliation from being the only point aimed at. There may be difference of opinion, whether the plans of a confederate war may, or may not, have been carried to excess, but no reasonable man can dispute the principle, that for our own interests as an island, we ought not to abandon the continent.

His majesty has with great propriety taken notice of that spirit of disorder which has shewn itself so remarkably the last summer, and is not yet subsided. It is a licentiousness well deserving the wisdom of parliament united with that of government, to give some check to, and to prevent the mischief from spreading, which if not crushed in time, will be attended with the most fatal consequences to this constitution, such outrageous abuses of liberty having always been dangerous to liberty itself.

The rights and properties of the meanest as well as highest subject depend alike on the due obedience that is given to the laws, and the suffering tumultuous popular combinations to be set up, either to over-rule laws, or to regulate abuses, is in effect a dissolution of government.

It is now more than time to relieve the House from the attendance which they have indulged me with, and to submit to their consideration the motion which I shall humbly presume to make: namely,

"That an humble Address be presented to his majesty, to return his majesty the most humble thanks of this House for his most gracious Speech from the throne; and to assure his majesty, that this House sees with the deepest concern the success of his majesty's arms so unequal to the justice of his cause, and to the extent and vigour of the measures formed for that purpose: that his faithful Commons firmly rely, that as his majesty, in his royal justice, has endeavoured to trace the causes of past disappointments, he will also, in his high wisdom, open better hopes of future prosperities, by invigorating our enterprizes, and animating the attempts of the British arms: that in this confidence they will cheerfully support his majesty in the utmost efforts for the security of his kingdoms, and for the recovery and protection of the possessions and rights of his crown and subjects in America and elsewhere, as well by the strongest exertion of his majesty's naval force, as by all other adequate methods: to assure his majesty, that his faithful Commons, excited by zeal for the Protestant cause, and the liberties of Europe, do with most unfeigned joy humbly offer their congratulations to his majesty on the late signal success in Germany; and that they will vigorously and effectually enable his majesty to improve the happy turn of affairs there, and in particular to support his good ally the king of Prussia in such a manner as the magnanimity and unexampled efforts of that great prince, in defence of the religious and civil liberties of Europe, deserve and require: that this House acknowledges, with all dutiful gratitude, his majesty's paternal and seasonable care for the interior tranquillity and safety of his subjects in having been graciously pleased to recommend to this House to do their part for maintaining the laws and lawful authority, against that spirit of disorder which has shewn itself amongst the lower people in some parts of the kingdom; and that they will not fail in due time to take into their most serious consideration the properest methods for discouraging and suppressing such abuses, and for preventing the causes of the like mischiefs hereafter."

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The motion was seconded by lord North and supported by lord Milton: and although some of the late measures were objected to by Mr. William Beckford, yet as nothing was said against the form of the Address proposed, the motion, and the address drawn up in pursuance thereof, was agreed to *nem. con.*

The Commons' Address of Thanks.] The Address was as follows:

"Most Gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Commons of Great-Britain in parliament assembled, return your majesty our humble thanks for your most gracious Speech from the throne.

"We beg leave to assure your majesty, that this House sees, with the deepest concern, the success of your majesty's arms so unequal to the justice of your cause, and to the extent and vigour of the measures formed for that purpose.

"Your faithful Commons firmly rely, that, as your majesty in your royal justice has endeavoured to trace the causes of past disappointments, your majesty will also in your high wisdom open better hopes of future prosperities, by invigorating our enterprizes, and animating the attempts of the British arms: and in this confidence, they will cheerfully support your majesty in the utmost efforts for the security of your kingdoms, and for the recovery and protection of the possessions and rights of your crown and subjects in America, and elsewhere; as well by the strongest exertion of your majesty's naval force, as by all other adequate methods.

"Permit us to assure your majesty, that your faithful Commons, excited by zeal for the Protestant cause and the liberties of Europe, do, with most unfeigned joy, humbly offer their congratulations to your majesty on the late signal success in Germany; and that they will vigorously and effectually enable your majesty to improve the happy turn of affairs there, and, in particular, to support your good ally the king of Prussia, in such a manner, as the magnanimity and unexampled efforts of that great prince, in defence of the religious and civil liberties of Europe, deserve and require.

"We should be wanting to ourselves, and to those we represent, not to acknowledge, with all dutiful gratitude, your majesty's paternal and seasonable care for the interior tranquillity and safety of your subjects, in having been graciously pleased to recommend to us to do our part for maintaining the laws and lawful authority against that spirit of disorder which has shewn itself amongst the lower people in some parts of the kingdom; and we will not fail, in due time, to take into our most serious consideration the properest methods for discouraging and suppressing such abuses, and for preventing the causes of the like mischiefs hereafter."

The King's Answer.] The King returned this Answer:

"Gentlemen,

"I return you my thanks for your dutiful and affectionate Address; and for this unanimous mark of your zeal for the honour of my crown, and the support of the common cause, and particularly of my good brother and ally the king of Prussia.

"You may depend on my constant endeavours for the safety and welfare of my kingdoms, and for the preservation of the liberties of Europe."

The Supplies granted for the service of the year 1758 amounted to 10,486,457*l.*

1758.

The King's Message respecting the Hanoverian Army.] January 18, 1758. Mr. Secretary Pitt brought down to the Commons the following Message from the King.

"GEORGE *R.*

"His majesty having ordered the army, formed last year in his electoral dominions, to be put again into motion from the 28th of November last, and to act with the utmost vigour against the common enemy, in concert with his good brother and ally the king of Prussia; and the exhausted and ruined state of that electorate, and of its revenues, having rendered it impossible for the same to maintain and keep together that army, until the farther necessary charge thereof, as well as the more particular measures now concerting for the effectual support of the king of Prussia, can be laid before this House; his majesty, relying on the constant zeal of his faithful Commons, for the support of the Protestant religion, and of the liberties of Europe, against the dangerous designs of France and her confederates, finds himself, in the mean time, under the absolute necessity of recommending to this House the speedy consideration of such a present supply, as may enable his majesty, in this critical emergency, to subsist and keep together the said army."

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In consequence of this Message, 100,000*l.* was unanimously granted, to be taken immediately out of the supplies of last year unapplied, and to be remitted with all possible dispatch.

Debate in the Commons on Mr. Grenville's Navy Bill.] January 24. Mr. Grenville presented to the House, according to order, a Bill for the Encouragement of Seamen employed in the royal navy, and for establishing a regular method for the punctual, frequent, and certain payment of their wages, and for enabling them more easily and readily to remit the same, for the support of their wives and families; and for preventing frauds and abuses attending such payments; and the same was received, and read the first time.

On the 27th instant the Bill was read a second time; on the 31st it was committed, and on the 24th of February it was read a third time, passed *nem. con.* and Mr. Grenville was ordered to carry it to the Lords. The following is the purport of Mr. Grenville's speech in support of his Bill:

Mr. *George Grenville* said:

Sir; in a nation, which in a great measure owes its very being and support to the flourishing state of trade and navigation, the increase and encouragement of seamen is a consideration peculiarly worthy the attention of the legislature. Sound policy directs every commercial state to invite seamen to enter cheerfully into the service of their country, rather than to press and compel them to a reluctant duty, by force and violence. The many hardships and distresses to which this useful body of men are exposed, the various modes of discouragement by which their zeal and vigour is depressed, must raise emotions of pity in every susceptible mind, and must render every one, who is endowed with the sentiments of humanity, sincerely anxious to procure them the most speedy and effectual redress. The motives of compassion alone, abstracted from all political considerations, all views to national advantage, are of themselves inducements sufficiently cogent, to make us earnest in the behalf of these oppressed members of the community, whose sufferings are no less a grievance to themselves, than a reproach to the nation.

How lamentable is it to reflect, Sir, that, after toiling abroad whole years in the service of their country, being exposed to all the perils of the sea, all the noxious effects of close confinement, unwholsome viands, and unhealthy climates: I say, after having experienced all these dangers and hardships, how lamentable is it, on their return home, harassed and distressed, to find no part of their wages, so hardly earned, ready for their receipt; nor any time fixed for the payment of the scanty pittance? In this cruel situation, Sir, necessity obliges them to raise money by anticipation; they become the property of the vilest harpies, and are forced to submit to the most usurious extortion.

This, however, is not the only defect in our naval system. Seamen, in his majesty's service abroad, having no opportunity of remitting any part of their wages to their wives at home, have, from this restriction principally, taken a general disgust to such service. It is not easy to conceive any valid objection, which can be made against this privilege of remittance, a privilege which is allowed in the French marine; a privilege which is constantly granted by our own East India company, and by several merchants of this kingdom.

An indulgence of this kind, Sir, appears to be perfectly agreeable to the rules of natural equity and national policy. To reflect on a distressed family, cut off from their chief support, pining in indigence, and at the same time debarred from receiving the affectionate tribute, which the husband and the parent would gladly remit, is a consideration too affecting to dwell upon. Not to insist on the inhumanity, I would urge the impolicy of such a restriction; the withholding so just and natural an indulgence, must necessarily create, among that class of people, a repugnance to matrimony, and must consequently tend to lessen the number of our inhabitants, which are the strength of a kingdom.

I am sorry to observe, Sir, that the derision with which our brave sailors are treated, and the slight esteem in which their profession is held, in proportion to its importance, are no small aggravations of the severe hardships which they so unjustly experience in themselves and their families.

I would not, however, attempt to address myself to the passions of this assembly, but to appeal to their judgments. The cause I espouse does not require the exertion of pathetic power; and if it did,

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I am conscious of my inability to move your affections. The nature of the subject will suggest, what I am incapable of describing: and your own feelings will afford you a lively representation of those affecting circumstances, which would appear languid from my imperfect description.

I will cease, therefore, to urge motives of compassion, and will proceed to examine the Bill now depending, solely as it regards the essential point of national utility.

To preserve that order of perspicuity, Sir, which the nature of this enquiry demands, it will be proper for me to take a short view of the laws now in being, which principally concern the regulation of the naval system.

Amongst these, the most material are two acts, which were passed in the first year of his majesty's reign, in consequence of a gracious recommendation from the throne. The one is entitled, "An Act for granting to his majesty the sum of 500,000*l.* towards discharging wages due to seamen, and for the constant, regular, and punctual payment of seamen's wages for the future." The other is entitled, "An Act for encouraging seamen to enter into his majesty's service."

The object of the first of these acts was, agreeably to its title, the securing the regular and punctual payment of seamen's wages; and it was framed with a view to prevent the money granted for that service, from being appropriated to any other branch of the naval department. It is, therefore, thereby enacted, "That out of all sums granted, or to be granted, by parliament, for the service of the navy, such parts thereof, as are on the head of seamen's wages, shall be constantly issued, and applied for the payment of such wages, in the manner following; that is to say, when any of his majesty's ships shall have been in pay six months, and be in any part of Great Britain, or on the coast thereof, the commissioners of the navy shall thereupon cause two months wages to be paid to such officers and seamen, or their attornies: and in case such ships shall be then in any part of Ireland, or abroad in foreign parts, if the inferior officers and seamen shall desire to have their two months wages paid at home, the commissioners of the navy are to cause payment of the same to be made, within one month after the receipt of the pay-list for each ship, to the attornies of such officers and seamen; and so on, at the end of every six months, two months wages are to be paid as aforesaid; and when such ships shall have been 18 months in sea-pay, the wages of the first 12 months shall be paid, deducting what shall have been advanced as aforesaid, within two months after, or so soon as any such ship shall put into any port of this realm, where his majesty's ships are usually paid: and as to the residue of their wages, the same shall be paid within two months after the arrival of any such ship in the port where she is to be laid up."

This act, Sir, was planned under the concurring direction of the treasury and the admiralty, and was, in a great measure, really executed for near the space of six years. At the expiration of that time, although it has never been repealed, and although the instructions for carrying it into execution are still in force, it has nevertheless been utterly disregarded. It must, indeed, be acknowledged, that the provisions it contains are, some of them, extremely inaccurate, and lie open to many frauds and inconveniences.

The clause which orders the payment of ships which shall be in any port of Great Britain, or upon the coast thereof, is one flagrant instance of the inaccuracy of this act; for such payment being requisite to be made under the direction of a commissioner of the navy, and by clerks in possession of the proper navy-books, can only be performed when the ships arrive at ports where such commissioners and pay-clerks are resident; and it can never be proposed to station them in all the ports of Britain, and round the coasts of this island.

By another provision in this act, "Seamen belonging to such ships as shall be in any port of Ireland, or abroad in foreign parts, are allowed, by pay-lists to be transmitted home by the captain, to allot two months pay at the end of every six months, to be paid to their attornies." This clause, Sir, made a wide opening for fraud and imposition. It suggested a practice to those harpies, who prey upon the wants of mankind, of advancing money to the pursers and captain's clerks, for the purchase of letters of attorney for the two months pay; which amounting to 45*s.*, after the stated deductions from it, was frequently sold in the West Indies, and other foreign parts, for 18 or 20*s.*, by which the poor seamen suffered a drawback of about 60 per cent. Upon this

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occasion it gives me pain to observe, that some of the officers themselves were, upon too manifest grounds of suspicion, thought to have been concerned in this cruel and infamous practice.

Notwithstanding another act of the same year, for rendering all seamen's letters of attorney void, unless revocable, yet these impositions by degrees extended through the whole navy, and occasioned objections against this method of payment; which, co-operating with the short sums voted for the naval service, and with the desire of paying those branches first which bore interest, gradually relaxed the execution of this act, till towards the year 1739, when it was totally disregarded. Proper means, nevertheless, might have been devised for checking these impositions; and it does not appear by what authority the regular and speedy payment of wages, appointed by this act, is boldly discontinued.

The other act, Sir, for encouraging seamen to enter into his majesty's service, has been executed; and, in most instances, is still put in force. Many clauses, however, are inaccurately worded, and are found by experience to be inadequate to the purposes intended: of which, instances will appear in the course of my remarks on the Bill now depending.

Having thus, Sir, briefly opened the present state of our naval regulations, give me leave to offer a few observations on the most material clauses of the Bill now depending. It consists of some which are entirely new, and has incorporated others from the acts now in being, which are proposed to be hereby repealed.

Here, Sir, I cannot forbear applauding the excellent scheme of repealing the former acts, and enacting those clauses *de novo*, which are intended to be retained. This method is infinitely preferable to the usual practice of continuing the old laws in force, and adding explanations of them by subsequent acts.—A practice, Sir, which has rendered statutes so voluminous, and has introduced such endless doubts and perplexities on almost every subject, that our laws, in this respect, are so many snares for the weak, and a subject of ridicule for the wise.

The Bill now before us, Sir, among other things, enacts, "That volunteers are to be allowed the usual conduct-money, and also two months wages advance, at the first fitting out of the ship, and before she proceeds to sea."

This is an amendment of the act of 1 Geo. 2, "For encouraging seamen," by the insertion of the additional words "at the first fitting out of the ship;" which were inadvertently omitted in that act. By these words, the payment of the two months advanced wages, is restrained to the volunteers on board of the ship at such first fitting out. For want of this restriction in the act of Geo. 2, the direction therein given for the payment of the advance money, stands general for every port and for every time any such ship shall be fitted out.

The Bill likewise provides, "That every supernumerary man serving ten days in any ship, shall be borne for, and entitled to, his wages, upon the books of such ship, and to all other benefits, as if he was part of the complement of such ship."

This clause, Sir, is entirely new, and calculated to prevent the oppressive practice of bearing men upon his majesty's ships for a considerable time as supernumeraries, under which denomination they are only entitled to victuals, and not to wages. If I am rightly informed, Sir, this practice is pursued in the following manner: suppose a ship to be put in commission, and the complement of her crew to consist of 500 men—the officers of this ship immediately begin to enter such men, either good or indifferent, as they can first procure, to the amount of this complement, which is the whole number entitled to wages: their complement being full, they nevertheless continue to receive volunteers, and to press men, to the amount, perhaps, of four hundred men more; all which, exceeding their complement, they enter on their books as supernumeraries. When the ship is ordered to proceed to sea, the officers cull their crew out of the whole 900, admitting perhaps 100 of the supernumeraries, and relinquishing the rest, which are generally turned over to other ships, and liable to be entered there also as supernumeraries. By these means it has frequently happened, that many unhappy men, who have been torn from their wives and families, and cut off from the means of livelihood, have been inhumanly tossed from one ship to another, for the space of two years, before they were established on any, as part of her complement, so as to entitle them to wages.

In this case likewise, Sir, pursers, surgeons, and slop-sellers, by whom such seamen have been furnished with medi-

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cines and necessary clothing, are put to great difficulties in tracing them through the several ships, in order to obtain their just demands.

It will be in vain, to urge in defence of this practice, that it gives the officers of his majesty's ships an opportunity of procuring abler crews than they could otherwise obtain, and consequently renders the fleet in general better manned. The purpose of culling the crew is sufficiently indulged in the clause under consideration. The officers are permitted to detain any man nine days, before he is received into the ship's complement, and entitled to wages; and upon finding a better man, they are empowered at any time to receive him into their crew, and to dismiss any one in his stead, whom they have already admitted. This clause therefore allows them a sufficient time for examining the men they procure, so as to select their complement; and only restrains them from keeping such poor men an unreasonable time without coming to any determination, and by that means depriving them of the benefit of being entitled to wages.

The fifth clause in the Bill, Sir, directs, that "Such sums of money shall in the first place, from time to time, be issued and applied out of the supplies granted for any naval services, as shall be necessary for the regular and punctual payment of all tickets, and of all pay and wages due, in the following manner, that is to say, as soon as any ship shall have been in sea-pay twelve months, or more, five complete pay-books shall be immediately made out for all the officers and seamen, for all the time such ships shall have been in pay, except the last six months, and shall be forthwith transmitted by the first safe opportunity, with three alphabets and a slop-book, to the commissioners of the navy at London; and as soon as such ship shall be or arrive in any port of Great Britain, where there is a commissioner of the navy, the commissioners of the navy at London are to cause payment to be made of the wages due, deducting the advance-money and all defalcations, leaving always six months wages unpaid, and no more; and all the wages due upon any ship, shall be paid within two months after the arrival of such ship in port to be laid up."

This, Sir, is an entire new clause, and is indeed the great basis of the Bill. By appointing the payment of six months wages whenever twelve months are due, the seamen will receive a considerable sum together, which may be worth preserving entire, for the benefit of themselves and families: whereas, by the act I have before taken notice of, which directs the payment of two months wages in six, they receive such a scanty pittance, as they generally deem too inconsiderable to be an object of frugality.

This clause also restrains the payment to such ships as shall arrive, or be at any port of Great Britain, where a naval commissioner resides; by which means no wages are allowed to be paid upon letters of attorney from seamen during their absence abroad, and thus all impositions attending that pernicious practice are prevented.

It likewise fixes a convenient interval between the payments, and detains a proper limited arrear unpaid; which arrear, when such ships are in Great Britain, is not to be less than six months, nor to exceed twelve months wages: a detention which cannot be deemed a hardship, since seamen, who are servants of the public, will suffer no greater inconvenience in this respect, than servants in general experience in private families. Besides, it is, perhaps, necessary that some arrear should be detained, in order to satisfy the legal demands of the pursers, slop-sellers, and other persons, by whom seamen are furnished with clothes and other necessaries on shipboard.

But the principal part of this clause, Sir, is the direction for securing the preference of payment to seamen's wages, before any other branch of the naval department; which remedies a mischief that has too long been prevalent. Here, Sir, it is necessary for me to observe, that although vast sums are annually granted for the service of the navy, according to the estimates delivered; yet extraordinary expences often arise, which, in some articles, exceed those estimates; by which means there must be a failure of payment somewhere. Upon which occasion, it has been the practice of ministerial policy, to supply the demands of the other branches of the naval department, and to let the weight of the deficiency fall on the head of seamen's wages, as the most popular branch, and the most likely to be provided for without opposition, in future grants. This policy, Sir, has been the rather favoured, as several articles in the naval department, for which navy bills are issued, bear interest, and are liable, by delays of payment, to be raised in their prices; whereas seamen's

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wages bear no interest, and continue fixed, notwithstanding any delays of payment. Thus this branch of the naval department has, by an unusual reverse of effects, continually been the most oppressed, because the most favoured by the legislature and the public.

The practice, Sir, of thus allotting the supplies, hath exposed our brave seamen to numberless distresses. Their necessities, and their title to public favour from their sufferings and services, plead strongly for their immediate payment, in preference to all other claimants; at least humanity and justice require, that the sums which are expressly granted by the legislature for their support, should not be withdrawn from them, and appropriated to other creditors.

Against such misapplication, Sir, the clause under consideration has effectually provided; and, as it now stands, it seems formed with a simplicity and strength, to withstand force and defy artifice.

The seventh clause of this Bill, Sir, is likewise altogether new, and is calculated to prevent the hardships to which inferior officers and seamen are liable, who have been absent, with the leave of their commanding officer, or by sickness, or any other justifiable cause, at the time their ships are paid off. According to the present practice, when ships are paid off at the out-ports, the pay-books are generally kept there for a considerable time afterwards, and recalls of the ships, that is, repeated days of payment, are appointed in favour of the absentees.—After which the pay-books are sent to London, where recalls of the same ships are sometimes made, but not so frequently as suits the convenience of the poor seamen, who, by reason of these delays, are often constrained to sell the pay due to them at a very considerable loss: or, perhaps, being hurried on board other ships, lose the opportunity of recovering their right.

To remedy these evils, Sir, the payment of such absentees is, by this clause, proposed to be made by pay-books and pay-lists, to be transmitted from the navy-office to the ports prescribed. Which will be attended with no other difficulty than the conveyance of such books and lists between London and those ports: and such as are acquainted with the multitude of books and papers now sent to the dock-yards three or four times in a week, will find no inconvenience in this practice.

The eighth clause, Sir, is wisely contrived to expedite payment of dead seamen's tickets. And the ninth relates to another species of tickets, that is, the tickets of discharged seamen, who are disabled from farther service, and are not admitted into his majesty's hospitals. This clause is admirably calculated to prevent those inconveniences which have hitherto prevailed. According to the present practice, when seamen are discharged, their tickets are delivered to themselves, and ordered to be immediately paid; yet, when these tickets are produced, the authenticity of the tickets, as well as the identity of the persons producing them, undergo the severest examination. The difficulty of ascertaining these points continually postpones the payment of these tickets, by which means these disabled men, after a painful journey to London, are harassed by delays and attendances, and are generally obliged to sell their tickets to usurious purchasers at an enormous loss. These flinty usurers, upon proving the payment of the purchase-money, are not required to ascertain any identity of person: whereas the poor seaman, on offering his own ticket for payment, is often perplexed to prove himself the same person for whom it was made out.

But this clause, Sir, having directed the transmission of these tickets to the commissioners of the navy, without any previous delivery to the seamen themselves, at once establishes their authenticity.

These tickets likewise being directed to be paid to the seamen themselves, are not liable to be sold, nor to become the instruments of usurious extortion.

Lastly, Sir, the certificates of discharge being indented, may be cut off from the several tickets, which will render any forgery impracticable; and upon their being produced by the seamen to the commissioners of the navy, and found to correspond, their identity will be incontestibly verified, and their right to their respective tickets clearly established.

I pass over the clauses immediately subsequent, which are entirely new, and contain most excellent provisions for the more regular and speedy payment of the seamen's wages. Their propriety is so evident, and their utility so obvious, that it would be inexcusable in me to detain this assembly with any comment on their excellence. I will therefore proceed to the consideration of the twelfth clause, which empowers seamen abroad to remit any

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part of their wages to their wives, fathers, or mothers, on which I beg leave to offer some few observations.

This clause, Sir, does no less honour to the policy than to the humanity of the honourable gentlemen concerned in the promotion of this Bill. It grants the seamen the privilege of doing an act of affection, which it is unnatural to prevent, and impolitic not to facilitate. It is unnatural to refuse an indulgence of this kind to men, who are suffering the greatest hardships, and exposing their lives, in the service of their country, while their families are distressed at home for want of their assistance and support: it is impolitic, because such a cruel restriction tends to render married men averse to the service, and to discourage the unmarried from entering into a state, which is so essential to the order and welfare of society.

But this clause, Sir, is intended to remove this hard restraint, and is planned with such extreme caution, as to prevent any frauds or abuses in the execution of it. Though it allows seamen to remit their wages home, yet it is provided that these remittances shall be made to their wives, fathers, or mothers only, each of whom, previous to their receiving such wages, are to produce certificates signed by the minister and churchwardens, or, in Scotland, by the minister and two elders of the parish, of their being the wife, father, or mother of such seaman. Which certificates, upon suspicion of fraud, are easily verified, or detected, by a reference to the proper parochial register.

As an effectual prevention of fraud, it is provided that these remittances shall not be liable to different claimants, each producing certificates of their relationship, but they are made due to such persons only, whose name and place of abode shall be inserted by the seamen in the pay-books of the ship, and who shall therein be acknowledged as his wife, father, or mother; to whom only a bill for such wages will be transmitted, and become payable, upon their producing the proper certificates.

The means provided by this Bill, Sir, are in every instance wisely adapted to the end proposed. The payment of the remittances is directed to be made in the most convenient manner, without expence, by bills transmitted from the navy-office to the seamen's wives, fathers, or mothers, at their own habitations, and made payable without fee or reward, by a neighbouring public officer, upon their producing certificates of their marriage or kindred, by which means the sale of such bills, and the intervention of usurious brokers, are absolutely prevented. In case of any failure in the transmission of any such bills, so that their payment shall not be duly demanded within six months of their date, they are to be returned and cancelled, and the sum contained in them is to become payable to the seamen.

Thus, Sir, this excellent clause has happily fixed on a method of providing for the most humane purposes, without fraud, delay, or expence. The extension of the indulgence for the benefit of fathers and mothers, as well as wives, is highly wise and equitable; and it must prove an additional encouragement to unmarried seamen, who have the least filial affection, to be secure in the means of contributing towards the support of their aged parents.

The subsequent clause, Sir, is a proper supplement of the preceding one: by the former, seamen are impowered to make remittances from abroad; by this they are enabled, upon receiving their wages at home, to remit such part as they chuse, to any person in Britain. According to the present regulations, upon receiving their wages at the pay-office in London, or at any port where a naval commissioner resides, they are often at a loss for the proper means of remittance to their wives, or other persons, to whom they may be disposed to be just; for want of this opportunity, and not knowing where to deposit their money in security, it is generally wasted in scenes of riot. But by this clause, any seaman, upon the receipt of his money, will be able, without fee or reward, to execute any honest intention for the relief of his family or friend, or for the discharge of any just obligation.

It may be proper, Sir, to remark, that in this clause they are not restrained, as in the last, to make the remittance to their wives, fathers, and mothers; and the latitude here given appears highly reasonable, as they are supposed, in this clause, to be actually possessed of their wages, and therefore at full liberty to dispose of them, without restriction. Besides, though the relief of their wives and kindred should be the principal objects, yet they may be liable to debts and other just obligations which they are bound to discharge.

The fifteenth clause, Sir, enforces the regular transmission of the pay-books, tickets, and muster-books, directed to be

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made by the captains of his majesty's ships, to the commissioners of the navy. Here it is necessary to observe, that no more is required of such captains by this clause, than their instructions now enjoin them to perform; though, from a continued neglect, they may probably deem it hard to be obliged to a just performance of their duty. But a regular transmission of these books, &c. would be greatly for their own private advantage, since, for want of such punctuality, many errors arise, which are to be rectified out of their pay. Besides, in case any of his majesty's ships should be destroyed, or taken by the enemy, the pay of the surviving crew, or, if none survive, the pay due to their representatives must be regulated by the muster-books transmitted to the navy-office; and in case they are wanting, claimants must lose their property. In few words, Sir, upon the regular transmission of these books and tickets, the whole pay of the navy, and the rights and happiness of a multitude of persons interested, do entirely depend.

The nineteenth clause, Sir, is an improvement of 1 Geo. 2, and contains some prudent provisions for the prevention of frauds and abuses with respect to seamen's letters of attorney. Though, perhaps, many reasonable objections may be urged against the total abolition of these letters of attorney, yet they ought undoubtedly to be restrained within as narrow limits as possible: and the directions in this act for the payment of seamen's wages to themselves, together with the regular and speedy method proposed for such payments, will, in a great measure, make it unnecessary for them to take up money upon such letters.

There are other clauses in this Bill, Sir, wisely adapted to give encouragement to seamen, and consequently, to promote the service of the navy. Indeed the whole seems to be constructed with a judgment and circumspection, which does credit to those who framed it. The gentlemen, before whom I have the honour to speak, have heard it read, and, from their own remarks will abundantly supply what is wanting in my imperfect observations. I have purposely confined myself to such clauses as are new, and, in my apprehension, most material; but I confess that I have not sagacity enough to start an objection to any part of the Bill. If, contrary to my expectation, any objections should arise, I flatter myself that I shall be able to demonstrate their invalidity, and to support every clause of the Bill now under consideration.

The following are the principal Arguments offered against the Bill, arranged in the form of a Speech.

Notwithstanding, Sir, all that the hon. gentleman has just now advanced in favour of the Bill under consideration, notwithstanding he seems so confident that no valid objections can be urged against it, I shall nevertheless venture to oppose it; as I am thoroughly satisfied that it is rather calculated to advance private views and purposes, than to promote the grand point of public utility.

I dare not however, Sir, in imitation of his example, take upon me to assert that my arguments are unanswerable: such language, perhaps, might argue more presumption than judgment, and might justly be construed as an affront to this House. I would not be thought, Sir, to dictate to, or anticipate the determination of any member here present. I do not bring a mind obstinately prepossessed in favour of its own sentiments; and however earnest I may appear in support of my own opinion, I am nevertheless open to conviction.

It must be confessed, Sir, the Bill under consideration bears a captivating title: it carries justice and humanity in its front, but misguided ambition, and an inordinate love of popularity, lurk beneath those specious appearances. I cannot help considering this pompous title, Sir, as a specimen of the florid talents of those who are at present supposed to guide our affairs, and who attempt to amuse the public with a vain parade of words, at this critical conjuncture, which requires active resolutions, and solid counsels.

I am not ignorant, Sir, how unpopular every argument must be, in opposition to this Bill; but I have learned to disregard all popularity, which is not founded on a hearty and unfeigned zeal for the public interest. I have lived to see patriots, who have received the thanks of their country, become at last the objects of public detestation: I have seen the idols of popularity thrown down, and trod under the feet of the vulgar. I despise all fame and power, which is to be acquired by flattering the passions of the multitude, in contradiction to my own reason and conscience: and I hope that I entertain a juster sense of honour, than to trust my reputation to the giddy tide of popular applause.

I would not, however, Sir, be thought

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to pay no regard to the voice of the people. The public opinion, no doubt, merits our attention; and, when it appears to be well-grounded, it is unpardonable to treat it with neglect. But when little arts are used to influence their judgment; when their understandings are perverted by specious eloquence; when they are bewildered in the flowery fields of metaphor; when they are foolishly captivated with the daisies of rhetoric; when millions echo the fantastic notions of one man; when millions are prepared to espouse the chimerical projects of a vain-glorious schemer—then, Sir, I cannot forbear pitying the public delusion; and then to disregard popular clamour, becomes a point of justice to the people.

We all know, Sir, by what steps some ministers have measured their way to greatness. They have bowed to the people, with the same view that lovers kneel to their mistresses, to deceive them; they only kneel to rise: they sue with pliant humility; but, when they have obtained their desires, from humble suitors they become tyrannical masters. It is the common artifice of false patriots to use the people as a scaling-ladder to preferment; and, when they are firmly seated on the pinnacle of power, they spurn at the means of their promotion.

I would not, however, Sir, by these reflections, be understood to suspect any gentleman in the present administration of dishonourable intentions. We may censure the means by which popularity is courted, without supposing the end to be criminal; if we only admit it to be vain, the effects will be sufficiently pernicious. When ministerial measures are pursued to gratify personal vanity; when pompous declamation is loud in council, and out-tongues sober reason; when, to win popular applause, innovations are attempted, unattended with any solid advantage—then, while the minister is pursuing of phantoms, the nation may suffer irreparable injury.

Should a minister, Sir, endeavour to establish himself under the sanction of democratic sway, be his motives ever so plausible, his administration cannot fail to be dangerous. The spirit of democracy is already too prevalent amongst us. There is not a subject debated in the House, but what is canvassed without doors with all the violence of animadversion. The national resolutions are, in an unbecoming manner, dictated by popular prejudice. The people are taught to harangue, as if speech-making was the business of the nation. They are seized with the vice of their admired patriot; they retail the fragments of his rhetoric; they collect the scattered tags of his antithesis; and worship the very puerilities of their favourite demagogue. This, Sir, was one ominous symptom of the decline of Athens; every one admired the accomplishments of an orator, while all forgot the duties of a citizen, and the state hastened to destruction.

I would not insinuate, Sir, that we are near this period of declension. Thank Heaven! the oratorial cacoethes is but a recent malady among us: but I am sorry to observe, that it has already spread so wide, as to become almost epidemical. Great pains are taken, both in conversation and print, to work upon the passions of the public, and eloquence is busy to persuade them that great things are intended, at the same time that nothing is meant. I will be bold to say, Sir, that arts like these have been employed during the progress of the Bill under consideration. Before it became a theme of debate within doors, it was a subject of declamation without. The common news-papers recommended, nay directed the passing of it into a law; I might almost say, that they added menaces to their recommendations. Nevertheless, Sir, I will venture to affirm, that there is no new scheme proposed by this Bill, which the admiralty now have not power to direct: and that it contains no practicable clauses, but what are already in use.

Notwithstanding the hon. gentleman, who spoke last, affected to decline the pathos, yet he has endeavoured to move our pity and compassion by a most lamentable representation of the seamen's sufferings. If the description is not exaggerated, they are indeed truly deplorable, and not to commiserate them, would be to renounce our claim to humanity.

But if the oppressions and hardships under which they are supposed to groan, are real, let us trace them to their sources. We may venture to say they are not natural, they are not constitutional hardships; they are not necessarily connected with the nature of the service; they do not arise from the construction of the laws; they must, therefore, if real, be owing to the negligence of those who are entrusted with the superintendance of the naval department.

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It is generally presumed, Sir, that the lord high admiral, or the commissioners for executing that important office, have the entire care and management of the seamen employed in his majesty's service: their allotment, their stations, and the frequency of their pay, have been hitherto understood to be under their peculiar direction.

Can we suppose, Sir, that gentlemen appointed to fill the board of admiralty, are destitute of humanity? Can they be so supine in office, so unsusceptible of tender sensations, as to hear the cries of the distressed seamen and their families, and not accelerate their relief? Is there not one advocate among so many honourable commissioners, to espouse the cause of the oppressed sailors? Impossible! they are men of distinguished rank, and pity ever dwells in noble minds. Had the distresses complained of been real, they would have provided for their redress; and it had not been left to the promoters of this Bill to court popular favour by pretending to rescue the injured seamen from the hands of oppression.

But I beg leave to contend, Sir, that these supposed distresses have being only from the hon. gentleman's invention and aggravation. It was necessary to aggrandize the patrons of this Bill, that the seamen should be represented in the most calamitous situation. But I beg the indulgence of this assembly, while I view the present condition of the navy, and consider how far the intended regulations will contribute to its improvement, or answer the ends and purposes proposed by the Bill.

Permit me, Sir, to observe that the several clauses calculated for the encouragement of seamen, are more clearly and more briefly stated in the acts of 4 Anne, and in those of 1 Geo. 2, than in the Bill now before us.

The former act provides for the immediate payment of men turned over from one ship to another, and directs tickets to be made out for men discharged as unserviceable. The latter acts of Geo. 2, pursue the whole plan of naval regulations, from the first raising the seamen to their dismission from his majesty's service.

These acts, Sir, which are very compendious, are the basis on which the present naval system is founded; and experience has proved it to have been wisely instituted, and, in general, properly conducted.

It is well known, Sir, that the arrears of seamen's wages are regularly and duly paid. The money granted by parliament for the service of the navy is properly issued; and, notwithstanding any insinuations to the contrary, such part of it as is allotted for the payment of seamen's wages, is faithfully applied to those services.

The method prescribed by the act of Geo. 2, for paying the seamen two months wages in every six that shall be due to them, was complied with, till the practice was found prejudicial, not only to the service, but to the seamen themselves. Artful and designing men took advantage of the thoughtless seamen, and, by purchasing their two months pay at a very considerable and unreasonable discount, nourished their vices, and frustrated the good intention of a speedy payment.

Upon consideration of these circumstances, Sir, that part of the act was remitted; and though the method in which it was directed to be done, made it necessary to forbear the execution of it, yet the intent was so laudable in itself, that it might have been revived and executed in a manner serviceable to the seamen, their wives and families. It is undoubtedly an object worthy of attention; and certainly those, in whose department it rests, might find a method of accomplishing this desirable end, without increasing the trouble of the commanders, or calling the aid of all the officers of the revenue to assist in the execution of their scheme. They, Sir, who understand their office, know the force of every act which relates to it, and can best remove or guard against any difficulties or perplexities which may attend the execution of any new regulation.

Thus it appears, Sir, that the payment of two months wages in every six, has been discontinued solely out of regard to the seamen themselves. With respect to the payment of the residue of their wages which by the act is directed to be made within two months after the ship is laid up, the compliance with the act in this particular is so notorious, that an assertion to the contrary becomes a matter of astonishment.

The same act, Sir, directs the payment of twelve months wages, when eighteen are due: and the constant usage has, in this point, ever been conformable to the directions of the act.

According to the present practice, ve-

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lunteers are entitled to wages from the day of their entry with any authorized officer of the fleet; they are allowed conduct money, carriage of their clothes, and an advance of two months pay, and are never turned over to serve in a worse quality than they served in their former ships.

In pursuance of the present system likewise, Sir, inferior officers, or seamen dying, have tickets made out of their time of service, which are immediately paid: and when the whole company of a ship is removed, they are paid their wages to the day of their removal. This last, Sir, I must observe, is an admiralty, not a legislative, indulgence.

It is also provided, in order to relieve the unthinking seamen from usurious extortioners, and to prevent any unfair advantages being taken of their necessities, that all bargains and bills of sale for pay due to any seaman, are void: neither is any letter of attorney for receiving such wages or pay good or valid, unless it is made revocable.

These laws and regulations, Sir, are the foundation of the present marine system. A material defect, however, was quickly perceived in this system, and was no sooner discovered than it was redressed. The acts in being had not provided for the payment of a seaman's wages, who should by accident be left sick on shore after the ship he belonged to should be sailed on a foreign voyage, without leaving either ticket or books behind; in which case the invalid and incurable must have returned home pennyless, or have starved when discharged the hospital.

This inconvenience, Sir, was remedied by that necessary interposing power which the lords of the admiralty have usually exercised over this useful body of people committed to their care. They no sooner perceived the defect than their humanity applied the remedy; and those objects of compassion who have lost their health or limbs in the service, are in all circumstances immediately paid the utmost farthing of their due.

Having thus, Sir, considered the state and practice of the navy under its present establishment with regard to the payment of seamen's wages, and their encouragements upon entering in the service; I will be bold to prefer the present system to the innovations proposed by the new Bill now in agitation.

Notwithstanding, Sir, all that has been so pathetically urged by the hon. gentleman who spoke last, with respect to the seamen's sufferings, and the cruelty of withholding their pay, yet it is obvious to every one conversant in naval affairs, that these complaints are altogether unjust and groundless.

That the seamen in his majesty's navy are well clothed, well fed, and well paid, are truths not to be controverted. The contractors of the victualling can testify that the best prices are given for their provision: their slops, which are bought at the best hand, are retailed to them at very near the same rate: and that they are well paid, there are recent instances in the ships now gone abroad, one not having three weeks pay due, and others scarce six months. We may be bold to say, that no instances can be produced of a squadron of ships going abroad without clearing the greatest part of the wages due, unless in cases of the greatest emergency. The attention of the admiralty on such occasions has been very conspicuous; they have not wanted a spur to do their duty, or shewn themselves destitute of a tender compassionate regard for our gallant seamen.

In considering the views of the Bill now depending, I can scarce avoid confining my attention to the prefatory introduction: for on that, indeed, the promoters of this Bill seem to rest its success, more than on any arguments they advance in its support. We are to believe the representations of the seamen's sufferings, through whose sides those honourable personages are to be wounded, whose daily study it is to encourage and protect them; we are to believe that the source of the seamen's distresses hath been the slow and uncertain payment of their wages; and that upon their return home from foreign voyages, there is no fixed time for the payment of their demands.

To these assertions we are to yield belief, and in this manner we are to be prepared to receive a Bill calculated to redress imaginary grievances.

The case of our brave seamen would indeed be truly lamentable, if this representation was just. His memory indeed would be great and glorious, who should exert himself for their relief, and rescue the unhappy sufferers from such intolerable oppression. But, as I have before clearly demonstrated, the salutary laws now in being, have been constantly, regularly, and punctually put in execution, so far as the service would permit: agree-

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ably to those laws the seamen have, from time to time, received a part of their growing wages; and so often as the ship they have served in has been laid up, the whole has been constantly cleared. These are facts which few will deny, and none can disprove.

I will now point out the grand objects to which this Bill is directed. Among these, Sir, "the appropriation of all the money granted for naval services towards the discharge of seamen's wages," stands foremost.

Here, Sir, permit me to observe that the inconvenience and prejudice which the government would sustain by subjecting the naval grants, in the first place, to the payment of seamen's wages, would be immediately felt by a great discount upon bills made out for stores and provisions for the use of the navy.

The debt of the navy would not only be increased by interest due on bills, but the price would be enhanced on all kinds of stores, as in former wars, in proportion to the discount on such bills. By the regular discharge of navy bills in course of payment, the discount has been kept low, the price of stores has been proportionable, and free from additional discounts of five or six per cent. which the non-payment of bills would, in process of time, naturally and inevitably create.

Four pounds per month for every seaman employed in his majesty's service does not defray the expence of wear and tear, provisions, ordnance, wages, and other unavoidable expences. This, Sir, is proved by the deficiencies every year, in consequence of which a debt is annually incurred; notwithstanding some part or proportion of the money allotted out of the grants for wages, is, as the hon. gentleman took notice, employed towards reducing that part of it which carries interest; and without such allotment, the credit of the navy would be still worse affected, the contract prices on all stores considerably increased, and an interest created, which, under the present method of payment has, and may yet be kept under.

But this is not all, Sir. Should this new appropriating clause take place, a considerable part of the money allotted to the head of seamen's wages, must be unemployed, and remain in the treasurer's hands for his private benefit, while our fleets remain in foreign parts, and while the course of the navy would be running on at an interest, and a very considerable discount. Thus the public would be injured, and the treasurer alone would be benefited: and we hope the promoters of this Bill, however strong their connections may be, will not be so partial as to consult his interest in prejudice of that of the nation.

It does not become us, Sir, to disregard expence, to use no parsimony in the naval department, but to sacrifice every thing for the sake of one favourite object. This will evidently be the case, should we consent to the appropriation of the naval supplies granted by parliament, and direct the application of them towards the discharge of seamen's wages in the manner proposed by this Bill.

I beg leave in the next place, Sir, to consider the fifth clause in the Bill, which directs the captains of his majesty's ships, whether at home or in any part of his majesty's dominions, to make out five complete pay-books for every six months the ship shall have been in pay, except the last six months, and to transmit the same to the commissioners of the navy.

By this clause, Sir, it is intended that the wages due upon such books shall be discharged as fast as the service will permit the ships to come into port.

When the nature and disposition of our seamen shall be altered; when they shall appear to be better and happier with money in their pockets; when they shall discover the least sense of economy, then we may admit the necessity of changing the present method of payment.

Those who have a thorough knowledge of our maritime people, who are witnesses to their thoughtless inconsiderate conduct in every circumstance of life, must acknowledge that the absurdity of too frequent payments is too glaring to be justified.

I see many in this assembly who have been long conversant in naval affairs, and many who have commanded in the navy with great reputation: I appeal to them, and let them declare how foolishly our seamen squander away their money, and how unruly they are when their pockets are full. Nay, I may venture to appeal to the whole world for proof of their profuseness; it is so notorious, that the extravagance of a sailor is constantly used to illustrate any glaring act of profusion.

I would not be thought, Sir, to aggravate the foibles and misconduct of this useful body of men; but their disposition

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is such, that too frequent payments would inevitably excite them to mutiny, disorder, and licentiousness, which with them are the natural concomitants of affluence.

How much better would it be to detain their wages till they grew considerable, that after their tedious toils and labours are over, they may have a sum to receive, on which they may live a while with their families in peace and content, without being obliged immediately to return to their watery element, to encounter fresh hardships and fatigue.

But I beg leave to contend, Sir, that such quick payments would not only be attended with bad consequences to the seamen themselves, but would likewise prove of evil tendency to his majesty's service in general.

It is a fact universally established, that no seaman can work with money in his pocket; and it is for this reason that all payments to them are postponed till a ship, upon her arrival in port to be cleaned, is cleared of her stores, docked, and again refitted. An attempt, Sir, to vary this practice, would be fruitless, and endanger the unmanning of a well disciplined ship. No power can curb a seaman flushed with money; his intemperance is predominant, and he will run all hazards to indulge his passions. It is evident, Sir, from calculation, that there are twenty deserters who have less than a year's pay due to them, for one who has above a year owing to him. We may judge from hence, Sir, in what a condition our navy must be, if this scheme for prompt payment takes place: it will remain undisciplined and unmanned.

Why, therefore, Sir, should we endanger the unmanning of the fleet? Why should we indulge the vices and extravagances of the seamen, and afford them the means of destroying their constitutions? Why should we put the government to an extraordinary expence for prompt payment to those who are so well fed, and so comfortably clothed? Rather let us abide by the practice which has hitherto been so successfully pursued. Their growing wages is a deposit which detains them, it is a bank which they do not forget, which keeps them cheerfully together, and makes their toilsome life pass away in comfort.

With regard to the expedient for "enabling seamen abroad to empower their wives, fathers, or mothers, to receive part of their wages in their absence," I am far from thinking such a provision either improper or impracticable. It is an encouragement which seamen deserve, and it would be doing them a real benefit. But the method of doing it should be attentively considered; for hasty and ill-concerted plans will be attended with grievous and endless perplexities.

It is publicly known, that this point has been seriously considered, and that a well-digested plan for this purpose has been reported to the proper officers, though the promoters of this Bill have taken no notice of any such matter being in agitation.

I must confess, Sir, that the method proposed by this Bill appears to me highly exceptionable. It is well known, that it is a frequent practice for seamen to pass through the ceremony of marriage with two or three different women, who may be all living at the same time, and able to produce regular certificates of their marriages.

The answer to this objection, Sir, has been anticipated by the hon. gentleman who spoke last but one, and observed, that "the seamen's wages remitted home will not be liable to be claimed by different persons producing certificates of their marriage, but by such one person only, whose name and place of abode shall be inserted by him as his wife, in the pay-books of the ship."

But I beg leave to observe, Sir, that, according to the laws of the land, the first wife is the only lawful wife: and I would ask the hon. gentleman, whether a seaman, under the circumstances of polygamy, may not be influenced to give the preference to a subsequent wife, and thereby establish a partial in prejudice of a legal right.

With respect to the clause, Sir, "for enabling the seamen at the time of receiving their wages at home, to remit such part thereof as they shall think proper, to their wives and families." It seems to be altogether needless and superfluous. This purpose may be answered with equal ease and safety, without retarding the payment of the ship, which may be unmooring for the sea at the time of the payment, without interfering with any public offices, or even the offices of the revenue in distant countries.

To facilitate such remittances, Sir, let such part of the seaman's wages, as he shall choose, be paid in a promissory note, signed by the treasurer of the navy, or his

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deputy, for any small sums, from one to five pounds, and be made payable to order. In this note the seaman may direct the name to be inserted, to whom he intends payment to be made; and being remitted agreeably to his order, his wife, relation, or friend, will find a ready acceptance of the Bill by any of the trading people, or others, who want remittances to London. In this case there will be no official embarrassments: the treasurer of the navy-office in London will receive and pay it with the same readiness with which bankers discharge their notes.

Having thus, Sir, examined the advantages and disadvantages which may attend the innovations proposed by this Bill, I flatter myself to have fully demonstrated that, of the more material clauses it contains, some are totally superfluous, and others dangerous to be put in execution.

By what motives the promoters of this Bill were influenced, I will not take upon me to determine. My own motives for opposing it arise from a thorough conviction of its utter inexpediency, and dangerous tendency. I am altogether independent and unprejudiced: I am attached to no minister, nor bigotted to any measures.

To judge of the promoters with candour, I will suppose the Bill to be only calculated for vain parade, to catch popular applause. But should the ostentatious project receive the sanction of this assembly, it may be attended with mischiefs to the nation, which its patrons probably do not foresee: for which reason I concur with the hon. gentleman who spoke last, and am against its being passed into a law.

The Reply was as follows:

It affords matter, Sir, of equal surprise and concern, to perceive that the most profitable schemes and disinterested plans are doomed to struggle against predetermined opposition and malevolent interpretation. The hon. gentlemen, Sir, who have just now spoken against the Bill under present consideration, have been pleased to throw out insinuations against the promoters of it, and to stigmatize them as acting upon the motives of vain popularity. It is needless for me to comment on such ungenerous suggestions. But I beg leave to observe, that reflections of this kind are not only indecent, but the matter of them is altogether foreign to the consideration of this assembly. We are not met to debate about men, but about measures. We are not to determine the merit of the projectors, but to examine the utility of the plan they recommend. The motives which influence their recommendation, are totally immaterial in the present debate; and upon this occasion, Sir, sense and decency enjoin us to avoid all personal disquisitions.

Nevertheless, Sir, if we should admit them to have been actuated by the love of popularity, yet the motive, so far from being discommendable, may be deemed laudable in the highest degree. The strongest incentive to noble deeds is the desire of public esteem: the man who is indifferent about public applause, will never be zealous for the public welfare.

That popularity, indeed, which is courted by means of corruption, by flattering the passions, and nourishing the vices of mankind, is base and detestable. But even malice itself cannot reproach the promoters of this Bill with such corrupt and abominable expedients. Their opponents are therefore reduced to the wretched necessity of insinuating, that it is rather calculated to gratify personal vanity, than to promote the national welfare. An assertion as groundless as it is invidious: and I make no doubt but this assembly will be convinced that the system recommended by the Bill in agitation, is not vain or chimerical, but evidenly profitable and expedient.

One of the gentlemen has been pleased to boast of his independence, and to intimate that he is attached to no minister. This intimation, Sir, might have been spared. I do not know that all ministerial attachments are culpable. Even the worst of ministers, who endeavour to maintain themselves in power by the help of venal supporters, are obliged to employ some men of integrity and abilities.

For my own part, Sir, I am not ashamed to acknowledge, that I am attached to the present ministry. Their measures hitherto have been such as merit the most grateful approbation and steady support: and while they pursue the same laudable conduct, I shall always be forward to testify my attachment. I am convinced that no man can be justly deemed independent, but he who is guided by the reason and expedience of things, abstracted from all personal and party prejudices.

With regard to the objections, Sir, urged against the Bill under consideration, they are such as no one could have fore-

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seen or expected; and such, I am confident, as the gentlemen would have blushed to adopt, had not some violent prepossession misguided their judgment.

Among other things it has been objected, Sir, that "the prompt payment of seamen's wages will supply them with the ready means of debauchery, and by encouraging their natural intemperance, render them turbulent and disobedient, to the detriment of the service."

If we allow this argument to be just and reasonable, it may be extended so far as to deprive the poor seamen of all their wages and prize-money. But though the project of starving men into order and regularity, may be received as good doctrine in a monastery, yet we hope that it will never be adopted in the British navy. Such expedients may mortify men's bodies, but will never reform their manners.

Besides, Sir, the speedy and punctual payment of the seamen's wages is really the most effectual method of preserving and improving the discipline of the navy. The certainty of receiving their pay in due time, will alleviate their grievous toils, and banish that restless anxiety which now renders them uneasy in the service, impatient of controul, and desperate in disobedience.

The argument against such payment, Sir, might with equal propriety be extended to men in every station of life, whose property affords them the means of committing excesses. But it is certainly more just and reasonable to withhold their incomes from the indolent and luxurious than from the poor seamen, who earn their wages in the midst of toil and danger.

Permit me to say, Sir, that an attempt to regulate men's appetites by detaining their property, is altogether repugnant to the natural principles of justice and equity: it is inflicting an arbitrary punishment upon them, and treating the innocent as offenders. It is not only highly cruel and unjust, Sir, but it is extremely absurd and ridiculous: for however expedient some may think it to detain their pay, yet no one will venture to say that it is just utterly to deprive them of their wages; and whenever they receive the pittance, the predominant appetites will be indulged.

But I am inclined to believe, Sir, that the acts of riot and intemperance charged upon our sailors, are greatly exaggerated. A little awkward dancing and sportive frolic, which make the chief of their amusements, surely do not merit severe animadversion. Their pastimes are rather noisy than intemperate: and men who pass the greatest part of their lives in labour and confinement, ought certainly to be indulged in the uninterrupted enjoyment of their favourite recreations, during the short time of liberty they obtain. To debar them from their darling amusements by detaining their pay, would be the greatest cruelty and discouragement to the service.

There is no doubt, however, but that seamen, as well as mankind in general, are too much disposed to pleasure and profusion. But the Bill before us is so far from furnishing them with a fresh supply to gratify their appetites, that it will rather tend to lessen their excesses, by withdrawing from them the means of extravagance by their own consent and voluntary act.

This will be effected by the clauses enabling seamen abroad to remit their wages to their wives and families at home, and affording seamen at home, upon receiving their pay, an immediate opportunity of remittance to any person in Britain. By these provisions, the principles of duty, compassion, gratitude, and justice to their families and friends will be encouraged; and the Bill, so far from increasing the riot and debauchery of seamen, will produce the contrary effect, by affording them the means of applying their pay to just and worthy purposes, which might otherwise be dissipated in folly and extravagance.

It has been further observed, Sir, that "the keeping the seamen's wages in arrear is a necessary tie for retaining them in the service; and that if we relinquish this deposit, by the prompt payment of their wages, the service will be detrimented by frequent desertions."

Here it is observable, Sir, that this argument doth not deny the cruelty of withholding their wages, but justifies it as a necessary cruelty. But I beg leave to observe, that whatever effect it may be supposed to have in retaining men in the service after they are entered, it may raise the greatest abhorrence against their entering at all.

Besides, Sir, until they have continued some time in the service, and are liable to forfeit a considerable sum by desertion, the practice of detaining their wages can have no effect whatever. For while they are young in the service, and have little

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to forfeit, the sense of the ill-usage they are to suffer by the detention of their wages, will incite them, at any hazard, to desertion. Of this propensity we have the strongest confirmation from the authentic accounts we have lately received of the numerous desertions out of the ships at home only.

There can be no doubt, Sir, but that the regular and punctual payment of seamen's wages, and the privilege of making remittances to their wives at home, or, upon being paid at home, to any other persons they think proper, will render the service far more grateful than at present, to such seamen as are endowed with the least portion of humanity, or feel the least concern for their wives and families.

The establishment of such privileges, Sir, will likewise be highly agreeable to the families and friends of all seamen whatever; and if we consider how much men are under the influence of those with whom they are connected, it will manifestly appear, that the Bill proposed would remove the principal obstructions and aversions, which at present operate against their entering into his majesty's service.

It is notorious, Sir, that a great number of good seamen have lately refused to enter into his majesty's navy, because of the uncertainty of being paid their wages; and the dread, as they have alledged, of exposing their families, in the mean time, to beggary and famine. It has likewise appeared, Sir, in several instances, that five or six prizes have been taken by the crews of particular ships, and several payments of prize money having been distributed to them in the course of a year, yet scarce any men were lost by desertion out of such ships, though they were all permitted to go on shore, in companies of 40 or 50 at a time.

We may with good reason, Sir, conclude from hence, that the keeping of seamen's wages in arrear, prevents a great many of the most sober and serviceable men from entering into the royal navy; and that the speedy payment of their wages, with other indulgences, instead of weakening any ties, which at present restrain them, would create among them a general fondness for the service, and be the most effectual means of preventing desertion.

But as experience, Sir, out-weighs speculation, this point will be best determined by authentic accounts lately taken for the whole navy. In these accounts, Sir, the desertion from his majesty's ships for two years under quick payment of seamen's wages has been compared with the desertion for two similar years under slow payment. From whence it is evident, notwithstanding what the gentleman who spoke last has been pleased to advance to the contrary, that in the *duennium* of quick payment, when the debt for seamen's wages was small, desertion was at the rate of two out of 236 men per month: whereas, in the *duennium* of slow payment, it was at the rate of two out of 187 men. That is, Sir, as many deserted out of a small number under slow payment, as did out of a greater number under quick payment. This sufficiently demonstrates, that the keeping a large arrear of their wages unpaid, is far from being the proper means of retaining seamen in the service.

It has been invidiously insinuated, Sir, that "in consequence of the provisions contained in the proposed Bill, an increased profit will redound to the treasurer of the navy, by causing more money to circulate through his hands, under the speedier payment of seamen's wages."

It must give uncommon pain, Sir, to feeling minds, to find their most worthy acts ascribed to ungenerous motives. They, however, who are conversant with the course of naval business, know that the arrear of seamen's wages will not be brought altogether into the hands of the treasurer of the navy, to be lodged with him till demands for it shall arise: on the contrary, it is to be received and paid by him in such portions, and at such times, as shall be appointed by the commissioners of the navy; which appointment, according to the established rule, will not be made until equal sums are ordered by the Admiralty to be immediately put in a regular course of payment. Besides, Sir, the great scope and tendency of the Bill proposed, instead of aiming to detain money in the hands of the treasurer of the navy, is calculated to facilitate its speedier issue, by various new provisions, and the removal of many present obstacles: and it is demonstrable, that a treasurer of the navy would be able to keep much larger sums in his hands, if such was his intention, under the regulations now subsisting, than he could possibly retain by the proposed Bill under present consideration.

With regard to the general arguments advanced against the Bill, they are so weak, that they stand self-confuted; and the general objections to it are so immaterial, that they do not require discussion.

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The gentlemen have been pleased to say, that it contains no provisions but what the lords of the Admiralty have at present power to direct. But I beg leave to observe, that it is the business of legislators not to trust to what men may do, but to direct what they must do; not to leave them to their own inclinations, but to prescribe their duties.

As a free people, Sir, sound policy directs us to leave as little discretional power as possible in the hands of the officers of government.—No man can place higher confidence in those who at present superintend the naval department, or regard them with greater respect, than myself; but as their power is no more permanent than their lives, I should think it madness to trust the business of the navy to their well known discretion and integrity.

One of the gentlemen has confessed, that the provision in the act of George 2, for the payment of two months in six, has been remitted, as prejudicial to the service. It is needless to examine, Sir, how far such payment may be prejudicial; but I will be bold to affirm, that they who are directed to execute a law, are not to judge whether the law is expedient or not. We do not allow of a dispensing power in the crown, and let us never suffer it to be exercised by a subject. Practices of this sort are of themselves sufficient to determine us in favour of the present Bill, by which the duties of the officers in the naval department are prudently regulated, and particularly ascertained. In few words, Sir, the Bill seems to be wisely contrived to promote the happiness of the seamen, the benefit of the service, and the interest of the nation in general.

The Bill having passed the Commons by a considerable majority, it engaged, in a particular manner, the attention of the Lords, who by divers messages to the Commons, desired the attendance of several members. These messages being taken into consideration, several precedents were recited: a debate arose about their formality, and the House unanimously resolved, that a message should be sent to the Lords, acquainting them, that the Commons, not being sufficiently informed upon what grounds or for what purposes, their lordships desired the House would give leave to such of their members, as were named in the said messages, to attend the House of Lords, in order to be examined upon the second reading of the Bill; the Commons hoped their lordships would make them acquainted with their intention. The Lords, in answer to this intimation, gave the Commons to understand, that they desired the attendance of the members mentioned in their messages, that they might be examined as witnesses upon the second reading of the Bill. This explanation being deemed satisfactory, the members attended the House of Lords, where they were fully examined, as persons conversant in sea affairs, touching the inconveniences which had formerly attended the sea service, as well as the remedies now proposed; and the Bill having passed through their House, though not without warm opposition, was enacted into a law by his majesty's assent.

*Bill for shortening the Duration of Parliaments.**] February 20. Sir John Glynne moved, That an Act, made in the 6th of William and Mary, intituled, 'An Act for the frequent meeting and calling of Parliaments,' might be read: and the same was read accordingly. He also moved, That an Act, made in the 1st of George the 1st, intituled, 'An Act for enlarging the time of continuance of Parliaments,' appointed by an Act, made in the 6th of William and Mary, intituled, 'An Act for the frequent meeting and calling

* "Feb. 8, 1758. Every thing goes smoothly in parliament; the king of Prussia has united all our parties in his support; and the Tories have declared, that they will give Mr. Pitt unlimited credit for this session: there has not been one single division yet upon public points, and I believe will not.

"Feb. 24. The House of Commons is still very unanimous: there was a little popular squib let off this week, in a motion of sir John Glynne's, seconded by sir John Philipps, for annual parliaments. It was a very cold scent, and put an end to by a division of 190 to 70.

"April 25. Mr. Pitt gains ground in the closet, and yet does not lose it in the public. Last week, in the House of Commons, above ten millions were granted, and the whole Hanover army taken into British pay, with but one single negative, which was Mr. Viner's.

"May 18. Domestic affairs go just as they did; the duke of Newcastle and Mr. Pitt jog on like man and wife; that is, seldom agreeing, often quarrelling; but by mutual interest, upon the whole, not parting. The latter, I am told, gains ground in the closet; though he still keeps his strength in the House, and his popularity in the public; or, perhaps, because of that." Lord Chesterfield's Letters to his Son.

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of Parliaments,' might be read: And the same being read accordingly; a motion was made, and the question being put, That leave be given to bring in a Bill for shortening the Term and Duration of future Parliaments: the House divided, Yeas, 74. Noes, 190. So it passed in the negative.

Proceedings in the Commons on the Bill to explain and amend the Habeas Corpus Act.] February 21. During the recess of parliament, or soon after the beginning of the next session, it happened that a gentleman was pressed and confined in the Savoy, whereupon his friends applied for a Habeas Corpus. Upon this a question arose, whether this writ was to be granted or no? It was certainly a case not within the Habeas Corpus Act passed in the 31st of Charles the 2nd, because that Act, by the preamble, relates only to persons committed for criminal, or supposed criminal matters, which this gentleman was not; and the granting of a Habeas Corpus at common law seemed to be prohibited by the above-mentioned Act of the preceding session. This question was not at that time determined, because the gentleman was discharged by an application to the secretary at war; but it made the defection in the said Act of the 31st of Charles the 2nd to be taken notice of, and it was thought to be a defect of the most dangerous consequence to the liberty of the subject; therefore this day leave was given to bring in a Bill for giving a more speedy remedy to the subject upon the writ of Habeas Corpus.

March 8. The Bill was presented, read a first, and ordered to be read a second time; which it was on the 17th, and ordered to be committed to a committee of the whole House. April 17, the House resolved itself into the said committee, and Sir John Cust reported, that they had gone through the Bill, and made several amendments thereunto, which they had directed him to report. The report being received next morning, all the amendments except one were agreed to; after which an amendment was made by the House to the Bill, and then the Bill, with the amendments, was ordered to be ingrossed. On the Monday following the Bill was read a third time, passed, and sent to the Lords.

The following is a copy of the said Bill:

"Whereas the writ of Habeas Corpus hath in all times, been deemed to be the most effectual security for the liberty of the subject against every kind of wrongful imprisonment or restraint: and whereas any delay in the awarding or returning of such writ may be attended with the most fatal consequences to the person under restraint; and, by reason of such delay, the relief intended to be given may come too late for such person to be discharged from his restraint, or to receive any benefit from such writ; be it therefore enacted by the king's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the several provisions which, by an Act made in the 31st year of king Charles the 2nd, entitled, An Act for the better securing the liberty of the subject, and for prevention of imprisonment beyond the seas, are made for the awarding of writs of Habeas Corpus, in cases of commitment or detainer for any criminal, or supposed criminal matter, shall, in like manner, extend to all cases where any person, not being committed or detained for any criminal or supposed criminal matter, shall be confined or restrained of his or her liberty under any colour or pretence whatsoever; and that, upon oath being made by such person so confined or restrained, or by any other on his or her behalf, of any actual confinement or restraint, and that such confinement or restraint, to the best of the knowledge and belief of the person so applying, is not by virtue of any commitment or detainer for any criminal, or supposed criminal matter; an Habeas Corpus directed to the person or persons so confining or restraining the party as aforesaid, shall be awarded and granted in the same manner as is directed, and under the same penalties as are provided by the said act, in the case of persons committed or detained for any criminal, or supposed criminal matter; and that the person or persons before whom the party so confined or restrained shall be brought, by virtue of any Habeas Corpus granted in the vacation time under the authority of this act, may and shall within three days after the return made, proceed to examine into the facts contained in such return, and into the cause of such confinement or restraint; and thereupon either discharge, or bail, or remand the parties, as the case shall require, and as to justice shall appertain.

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"And be it further enacted by the authority aforesaid, that whensoever any writ of Habeas Corpus, granted either in term or vacation time, on the behalf of any party so confined or restrained without a commitment for any criminal, or supposed criminal matter, shall be served upon the person so confining or restraining such party, or shall be left at the place where such party shall be so confined or restrained, the person so confining or restraining such party shall make return of such writ, and bring or cause to be brought the body or bodies, according to the command thereof, within the respective times limited, and under the provisions prescribed by the said Act to sheriffs and other officers, in case of commitment or detainer for criminal, or supposed criminal matters; and every such person neglecting or refusing so to make return of such writ, or to bring or cause to be brought the body or bodies, according to the command thereof, within the times respectively limited, and under the provisions prescribed by the said Act to sheriffs and other officers, shall be guilty of a contempt of the court under the seal of which the said writ of Habeas Corpus shall issue; and shall also for the first offence, forfeit to the party grieved, the sum of three hundred pounds, and for the second offence, the sum of five hundred pounds.

"And be it further enacted by the authority aforesaid, That the several penalties inflicted by this Act, shall be recovered by the party grieved, his or her executors or administrators, against the offender, his or her executors or administrators, in like manner as the penalties inflicted by the said Act are to be recovered.

"And, to the intent that no person may pretend ignorance of the import of any such writ, be it enacted, That all writs of Habeas Corpus, awarded or to be returned under the authority of this Act, shall be marked by the court, or person respectively awarding the same, in this manner: "By an Act passed in the 31st "year of the reign of king George the "2nd." And shall also be signed by order of the court, or by the person respectively awarding the same.

"And be it further enacted by the authority aforesaid, That if any action, plaint, suit, or information, shall be commenced or prosecuted against any person or persons for any offence against this Act, the same shall be commenced within twelve calendar months after the time of the offence committed, unless the party grieved be then under confinement or restraint; and if he or she shall be then under confinement or restraint, then within the space of twelve calendar months after the decease of the party so confined or restrained, or his or her delivery from such confinement or restraint, which shall first happen; and such person or persons so sued in any court whatsoever, shall and may plead the general issue, not guilty, or that he or she owes nothing; and upon any issue joined may give the special matter in evidence: And if the plaintiff or prosecutor shall become non-suit, or forbear further prosecution, or suffer a discontinuance; or if a verdict pass against him or her, the defendant shall recover his or her costs; for which he or she shall have the like remedy as in any case where costs by the law are given to defendants."

The following are the principal Arguments which were made use of for and against the Bill:

Arguments for the Bill.

Sir; however liberty may have been abused by the treachery of pretended patriots on one hand, and the licentiousness of an unruly multitude on the other, we ought not therefore to grow cool in our concern for this inestimable blessing, which is, in some degree, the common end of every social institution. There is not a civilized nation upon earth, which has not some kind of provision to secure the person and estate of the subject; at least from the violence and encroachments of others of equal rank with himself. Where the government is most despotic, slaves are not subject to the oppression of any but their own masters. But under a free government, like ours, the laws in defence of liberty are various and extensive. In our constitution, such laws do not only bind the common and lower class of people, but every degree and order in the state: so that no man's liberty can be legally restrained any farther than the law directs, for the welfare and preservation of the whole community.

In construction of law, we are all commons alike, and equally entitled to protection. Such as do not inherit wealth, are nevertheless heirs to freedom; and they who have no other property, have a property in their liberty: indeed such, above all others, may be thought to have the best title to liberty, since it is the only valuable enjoyment to which they can lay claim.

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It is essential to liberty, that no man shall be obliged to act or suffer, but in conformity to, and by the direction of known laws: and indeed all states, of what nature or origin soever, have necessarily this one fundamental principle, that the persons and properties of its subjects are to be free from any wrongful or illegal encroachment of any other subject. Yet, notwithstanding this universally acknowledged principle, and though our ancestors have established the wisest and most noble institutions for our security, yet we often find ourselves reduced to the necessity of renewing our claim, and of struggling for the recovery of our rights and privileges from the hands of usurpation.

This necessity, Sir, recurs in the present occasion. The case of one unhappy man, out of many, who was torn by violence from his family, friends, and occupation, and perplexed with doubts and difficulties on his application for a Habeas Corpus, has been the means of bringing before us the Bill now under consideration.

The person, Sir, thus violently deprived of his liberty, was seized in order to be forced into military service as a foot soldier; under colour of a late act of parliament for the speedy and effectual recruiting of his majesty's forces: by which certain magistrates are authorized and empowered, within their several limits, to raise and levy such able-bodied men, as did not follow any lawful calling, or had not some other lawful and sufficient support, to serve his majesty, &c. and to commit them to close custody till properly disposed of; the men so impressed being made liable to all the penalties of martial law in case of desertion. This act, Sir, nevertheless contained a special proviso, that every person having any vote in any county, city, borough, town, port, or place, should not be liable to any such compulsion.

It will be needless to comment on the propriety of this act, which did not pass in silence, and without opposition: a protest of twenty peers is still extant, who expressed their dissent to it. It will be sufficient for my present purpose to observe, that the unhappy person under confinement was supposed not to be within the description of this act, though prosecuted with all the rigour imaginable. Being without other remedy, he applied for his Habeas Corpus, as a writ of right to which every subject was entitled. Upon this application, Sir, a doubt arose concerning the construction of the statute of 31 Charles 2, commonly called the Habeas Corpus Act.

That statute made provision only for the relief of the king's subjects committed for criminal or supposed criminal matters; and as the prisoner, as well as others confined by virtue of the Press Act, was free from every criminal imputation, it was contended that he could derive no benefit from it. So that his innocence, which, according to reason and nature, should plead in his behalf, became a ground for doubting whether he was entitled to that relief in law, on which supposed criminals might insist.

In discussing this doubt, Sir, it will be necessary to consider, in the first place, the extent of the subject's original claim to liberty; and in the next, how far this claim is destroyed or abridged by any law now in being. To proceed with more order and perspicuity, it will be necessary to recur to Magna Charta, the first written law which contains a solemn recognition and confirmation of those rights and privileges established by the fundamental or common law of the land.

The most material clause relating to the liberty of the subject, is that which follows: "No freeman shall be taken or imprisoned, or disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other ways destroyed; nor will we pass upon him, or condemn him, but by the lawful judgment of his peers (that is, his equals), or by the law of the land." The words of this clause, Sir, seem to be very explicit. Nevertheless, by forced construction and misrepresentation, they were perverted in aid of tyranny and usurpation: which put the subject under the necessity of obtaining a further explanation and confirmation of their rights.

The advocates for tyranny, in the reign of Charles 1, contended that the law of the land included a new kind of law of their own creation, which they called State law; and they argued, that by virtue of this law the king and his council had a right to imprison the subject, without specifying any cause of commitment. Under sanction of this diabolical doctrine, Sir, the most daring practices were committed. It is well known, that five gentlemen, being under imprisonment for not contributing their quota to the loan, having brought their Habeas Corpus in the King's-bench,

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were severally remanded, the court doubting whether they were bailable or not.

These lawless and unconstitutional proceedings, Sir, raised that spirit in the House of Commons, to which we probably owe the preservation of our inestimable rights, and occasioned them to come to the following bold and noble Resolutions, which ought never to be forgotten. "That no freeman ought to be committed or restrained in prison by the command of the king, or privy council, or by any other, unless some cause of the commitment, detainder, or restraint be expressed, for which, by law, he ought to be committed, detained, or restrained. That the writ of Habeas Corpus may not be denied, but ought to be granted to every man who is committed or detained in prison, or otherwise restrained, though by command of the king, the privy council, or any other. That if any freeman be committed or detained in prison, or otherwise restrained, by the command of the king, the privy council, or any other, no cause of such commitment, detainder, or restraint being expressed, for which by law he ought to be committed, detained, or restrained, and that the same be returned upon Habeas Corpus granted to the said party, then he ought to be delivered or bailed."

These Resolutions, Sir, with many others, formed the famous Petition of Right, and were the subjects of many curious debates between the Lords and Commons.

In defence of the king's arbitrary proceedings, it was argued by some of the lords and the king's council, that in criminal cases he might commit without process; and that it was hard he should not have the power of a common constable, who might commit without process. They affirmed, that the king was not obliged to express the cause of imprisonment, lest some matter of state should by such means be disclosed, which might alarm confederates, and afford them an opportunity of escaping the hands of justice.

They insisted farther, Sir, that it was a manifest contradiction to say that a party imprisoned ought to be delivered or bailed: for that bailing signified a kind of imprisonment still continued; delivery, a total discharge: and they contended, that bailing was an act of grace and favour in a court of justice, which might be refused.

To these cobweb arguments, Sir, the Commons opposed this solid reply. They observed, that by process was understood the whole proceedings of the law, which included the power of constables and all inferior magistrates. As to the danger of disclosing state secrets, and affording confederates an opportunity of escaping, by specifying the cause of imprisonment, they very justly took notice, that such dangers might be avoided by specifying a general cause, such as treason, suspicion of treason, or felony, without expressing the particulars of the offence; which general suggestion, said they, can give no greater light to a confederate, than the very apprehension and imprisonment of the party will convey, without any expression whatever.

As to bailing, Sir, they remarked, that where a commitment was by command of the king, or the privy council, it had been usual for the judges, out of respect, not to set the party free immediately, but to bail him to answer what shall be objected against him on the king's behalf: but that if any other inferior officer commit a man without specifying the cause, they instantly discharge him.

The brave Commons, Sir, further observed, that though bailing is an act of grace and favour in the court in cases of felony and other crimes; that yet, where no cause of imprisonment is returned, but the command of the king, there is no way of discharging such persons by trial, or by any other means but by Habeas Corpus: and if they should be remanded by the court, they might be perpetually imprisoned, without any remedy at all; and consequently, a man who had committed no offence, would be in a more deplorable situation than an atrocious offender: as the latter would be discharged by a trial of course, and the former might remain without any hopes of a discharge at all.

Here, Sir, give me leave to apply this argument of the Commons to the present case; and to observe, that a man taken into custody by virtue of the Press Act, will, if excluded the benefit of the Habeas Corpus Act, be in a more lamentable condition than the vilest criminal. Every malefactor is certain of a trial in due course of law, whereby he may be discharged; but an impressed man, under the exclusion before mentioned, may be imprisoned for life.

Every illegal confinement of a man against his will, is in reason and law an imprisonment. Perhaps a military imprisonment, Sir, is of all others the most severe and dangerous. It is strange and

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melancholy to reflect, that in a country, we may say the only country, which has liberty for its principle, a man shall be torn from his friends, family, and occupation, transported into a foreign country, perhaps exiled for life, and exposed to all kinds of dangers and hardships. It is strange, I say, Sir, that a law should exist in any country so opposite to the avowed principle of its constitution: but it is stranger still, that a man, who perhaps is able to prove that he is not an object doomed by that law to such severe service, should nevertheless have no opportunity of making good his exemption.

But I perceive, Sir, that I am anticipating my arguments, and that my digression violates that order which perspicuity requires. The reasons which I have above stated, as offered by the Commons, were too cogent to be invalidated by the sophistry of the king's advocates, and themselves were too resolute to be frightened at the sound of prerogative.

It is almost needless to observe, that by their wisdom and resolution they prevailed on the king to give his royal assent to this famous Petition; which, by that means, obtained the form and effect of an act of parliament.

The subject's right to liberty, Sir, was thus once more fully established; and the meaning of Magna Charta, was clearly explained and settled in the course of this contest. The writ of Habeas Corpus was allowed to be a writ of right: and it was determined, that upon the return of the Habeas Corpus, the party ought to be discharged, unless some cause of commitment or detainer was expressed, for which, by law, he ought to be committed or restrained; or bailed, where it was doubtful whether a legal cause of commitment or detainder existed or not.

Upon this footing, Sir, the law rested for some time. The abettors of usurpation could no longer controvert the subject's claim to liberty, but they endeavoured to evade it. They could not dispute the right, but they contrived to delay the remedy. The party, Sir, to whom these writs of Habeas Corpus were directed, were not bound to take notice of the first, or second, but were punishable only in case of disobedience to the third. To these affected delays, artifices were added: prisoners were removed from one gaol to another, so that it was difficult to discover them: in short, every method was devised to render the prosecution of the Habeas Corpus, as tedious and uncertain as possible.

Our progenitors however did not remain long under the weight of this grievous oppression. Though these delays and artifices were practised in an æra which was very unfavourable to liberty, yet they had the address to obtain the passing of the statute commonly called the Habeas Corpus Act, which is the strongest fortress of our liberty.

The title of this act, Sir, is very observable: it is entitled, "An Act for the better securing the liberty of the subject." The preamble likewise is not less remarkable. "Whereas (says the Act) great delays have been made by sheriffs, gaolers, and other officers, to whose custody any of the king's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of Habeas Corpus to them directed, by standing out an Alias or Pluries, or sometimes more, and by other shifts, &c. contrary to their duty and the known laws of the land, whereby many of the king's subjects have been, and hereafter may be long detained in prison; for the prevention thereof, and for the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters, be it enacted," &c.

After this recital, Sir, the statute provides, "That whensoever any person or persons should bring any Habeas Corpus, directed to any sheriff, gaoler, minister, or other person whomsoever, for any person in his or their custody, and the said writ should be so served on such officer, or left at the gaol, such officer, &c. should (under the penalty of 100*l.* for the first offence, and 200*l.* and incapacity to hold his office, for the second) within three days after service thereof, unless the commitment were for treason or felony plainly and specially expressed in the warrant of commitment, upon payment or tender of the charges of bringing the prisoner up, to be ascertained by the judge or court who awarded the writ, and upon security given for the party's going back, and not escaping, if remanded, make return of such writ, and bring the body of the party so committed or restrained, before the lord chancellor, &c. or such other person before whom the said writ was made returnable, according to the command thereof; and likewise then certify the causes of his detainder and imprisonment, unless the place of confinement were above twenty miles distant from such court, &c. but if

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above twenty miles distant, and within one hundred, then within ten days; and if above one hundred miles, then within twenty days, and not longer."

And the statute, Sir, further provides, "That if any person so standing committed or detained in vacation time, other than persons convict in execution, or any one in his behalf, complained to the lord chancellor, or lord keeper, or any one of his majesty's justices, either of the one bench or the other, or the barons of the exchequer, of the degree of the coif, the said lord chancellor, &c. or any of them (upon view of the copy of the warrant of commitment or detainer, or otherwise upon oath made, that such copy was denied to be given by the person in whose custody the prisoner was detained) are authorised and required, under the penalty of 500*l.* upon request made in writing by such person, or any one on his behalf, attested and subscribed by two witnesses, who were present at the delivery of the same, to award a Habeas Corpus under the seal of the said court whereof he should be then one of the judges, to be directed to the officer, &c. in whose custody the person shall be, returnable immediately before the lord chancellor, or such justice, &c. who should discharge him from his imprisonment, taking his recognizance for his appearance, unless he should appear to be committed for matters not bailable by law."

Now, Sir, it is evident, that this act was made in affirmance of the subject's liberty, and, as the title imports, for its better security. It was not intended to abridge or extend any prior right, but to give a more speedy remedy for the recovery of a subsisting and acknowledged right, whenever it should chance to be invaded.

This, therefore, Sir, as a remedial act, ought to be construed liberally; so as to afford relief in every case which falls within the mischief intended to be redressed. It is true, that the act, considered literally, confines the remedy to persons confined for criminal, or supposed criminal matters; but it is clear, that these words were only used to distinguish the Habeas Corpus intended to be granted by this act, from the Habeas Corpus issuing in civil cases with regard to persons under confinement for debt.

If the construction of this act, Sir, is narrowed to its literal sense, it will not only be repugnant to the principles of law, which establish the rule, that all remedial acts shall be construed beneficially, but it will militate against the dictates of the law of nature and right reason. It would be very strange, Sir, that the act should afford relief to persons under confinement for criminal offences, and at the same time deny that relief to such as shall be confined without being charged with any offence at all. A law, Sir, which should place innocence in a worse situation than guilt, would shock the understanding even of a savage. But happily the principles of our law do not admit of such barbarous interpretation: it is laid down as a fundamental maxim by one of the greatest sages that ever adorned the bench of justice, that acts of parliament must be construed in such a manner, that no innocent man may receive damage by a literal construction: and unless this maxim governs in the present case, numbers of innocent men taken under the Press Act, though particularly exempted by the words of that act, will be deprived of the means of procuring a legal discharge, and will thereby suffer irreparable damage.

Besides, Sir, in construing acts of parliament, we should consider how the law stood before the making of the act. Before the making of the act, all persons whatever, not committed for treason or felony, &c. had a right to their Habeas Corpus; and this act, which, as appears by the title, was made for the better security of the subject's liberty, could not mean to lessen the efficacy of a right existing by common law; but, as the preamble states, was only calculated to give a more speedy remedy for the recovery of those rights which were thereby affirmed.

Having thus, Sir, examined how far the objects under consideration have a right to speedy relief from the words of the Habeas Corpus Act, expounded according to the legal rules of construction, and considered as relative to the common law of the land, and antecedent statutes; permit me now to take a view of the Press Act, and see whether the subject's right to relief against wrongful imprisonment or confinement is thereby defeated or abridged.

This act, Sir, impowers certain magistrates to levy men, with particular exceptions to such as follow lawful callings, or have sufficient support, as likewise to voters. Now this frame of the act is so far from abridging any prior right which the subject had to his Habeas Corpus, that it rather confirms it by implication. For to

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what purpose are those express savings and exceptions of the general right to liberty to particular persons, such as voters, &c. unless such persons have a remedy, and the most speedy one too, of making good their exemption.

It is well known, Sir, that unless they have benefit of the Habeas Corpus Act, they must be entirely remediless. For if they are left to shew their exemption, according to the dilatory method of proceeding before that act, they may be deprived of all relief: they may be transported abroad: as the service is indefinite, they may be banished for life: nay, they may be cut off with the sword, or perish by various modes of destruction. Dreadful calamity! that men who are free by the fundamental laws of the land, who are complimented with freedom by the exemption of a particular act, should, nevertheless, be inhumanly deprived of a right to liberty, so solemnly acknowledged: for want of right, and want of remedy, is in effect the same thing.

The reason, Sir, of extending the benefit of the Habeas Corpus Act to impressed persons, is so obvious, that it would be unpardonable in me to dwell any longer on the expedience of such extension: they seem entitled to it both by the legal and equitable construction of that statute: but as persons of distinguished abilities, and untainted integrity, have entertained doubts concerning the interpretation of it, it is just that they should be removed, and that the statute should be explained by public authority, so as to give the intended relief, and direct its operation, conformable to its title, for the better security of the subject's liberty.

There is no doubt, Sir, but that every Englishman has a right to the writ of Habeas Corpus in all cases of confinement or restraint. Even in those times when the most unjustifiable encroachments were made on the liberty of the subject, this doctrine was never denied.

In the 29th year of king Charles 2's reign, Sir, in the very memorable cause of the lord Shaftesbury, when he and two other lords were committed to the Tower, by the House of Peers, for contempt of that House, and had obtained a writ of Habeas Corpus; the cause of detainder was argued at the bar by serjeant Maynard, and the king's attorney and solicitor general, in support of the return; but not one of them disputed the earl's right to the writ: on the contrary, Winnington, the solicitor general, admitted in express terms, "That the Court was obliged in justice to grant the Habeas Corpus."

As, therefore, there can be no doubt concerning the subject's right to this writ at common law, why should he not have an opportunity of obtaining the benefit it provides, in the most speedy and effectual manner, agreeably to the Habeas Corpus Act of Charles 2? Why should he be left to pursue his remedy in the dilatory and ineffectual method in use before the making of that statute?

It is true, Sir, that at the passing of that statute the practice of pressing was happily unknown. But as the Press Act has created a legal cause of imprisonment, which did not exist before, and as it contains exceptions (though perhaps partial ones, with respect to some favourite objects), it is highly just and reasonable, that all persons excepted should, in this case particularly, have the most speedy opportunity of pleading their claim to liberty; or the exception in their favour is absurd and nugatory, and they may be illegally doomed to the loss of freedom, and perhaps of life. They are most certainly within the mischief intended to be redressed by that act, and therefore have a right to the speedy relief it provides.

In the Great Charter of our liberties, Sir, we find these words, "We will not deny or defer to any man justice or right." In this, and indeed in most instances, to defer justice is in fact to deny it. To do justice is an indispensible duty; the obligation to do it speedily, is not less binding. To permit a moment's oppression, is unpardonable injustice.

In short, Sir, unless the benefit of the Habeas Corpus Act is extended to the objects in question, the restriction will amount to a repeal of Magna Charta, in the most essential point now remaining with regard to the subject's liberty. The Press Act is of itself sufficiently unfavourable to freedom. It contains odious distinctions between voters and non-voters. Distinctions unknown to the Great Charter, that solemn recognition of the fundamental laws of the land—that law, which, since the abolition of villainage, declares us all freemen alike.

Let us not, therefore, Sir, extend the hardships of the Press Act, by an inhuman restriction of a remedial act. Let the conservators of the public liberty remember the opposition which was made to the

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passing of that grievous statute, and recollect the protest now extant against it. Let them consider that freedom may be undermined, as well as stormed; and let them be as cautious to guard against the silent progress of subtle encroachments, as zealous to oppose the bold attempts of violent usurpation.

For my own part, Sir, I think that, under the present state of government, there is more to be apprehended from artifice than force: the laws, therefore, in favour of liberty, cannot, in my opinion, be too plain and positive: and I hope that the Bill now before us will pass with general unanimity.

Arguments against the Bill.

Sir; it is with the highest reluctance, that I rise upon this occasion, as I am thoroughly apprised how ungrateful an attempt it must be, to argue in opposition to a Bill, which, as the title at least imports, is calculated for the further security of the subject's liberty. Since this Bill has been depending, Sir, we have heard nothing but the echo of liberty from all quarters. But while we follow the sound, let us take care we do not lose the substance. I am as anxious for the preservation of this inestimable blessing as any member here present; but I am persuaded that the sanguine patrons of this Bill are mistaken in their views, and that the passing it into a law, will rather weaken than add strength to public freedom. In support of this opinion, I shall briefly consider the subject on the principles of the law of right reason, on the grounds of the common law, and on the footing of the act of queen Anne.

By the law of reason, Sir, I cannot conceive a right to liberty in individuals, repugnant to the good of the whole community. Such a particular right, when dangerous or destructive to the general freedom, would oppose the end of all political institutions. Legislative policy, Sir, takes in its comprehensive view the good of society, not of individuals: it declares no one free, merely as a man, but as a citizen. As men, we are in a state of nature; as citizens, we are connected in society, and become members of one commonwealth. Therefore, all the rights we claim, and all the duties we owe, are in our political capacity as citizens, and must be considered as relative to the good of the whole. Viewed in this light, Sir, it is evident that no man whatever can support a claim to liberty inconsistent with the public good, however strong his title may be which he derives from the law; yet whenever the common welfare requires it, he must resign that title, or the ruling powers may legally deprive him of it. Thus, every citizen's claim to liberty seems to stand on the principles of right reason: and I will be bold to insist, that the grounds of the common law rest on the same foundation.

It is well known, Sir, that originally the subjects of this kingdom had not an equal title to freedom. Many were in a state of absolute bondage; and the benefit of the clause in Magna Charta, quoted by the gentleman who spoke last, is expressly confined to freemen only.

But it has been said, that, since the abolition of villainage, we are all freemen alike. This proposition I shall not controvert; but I beg leave to dispute the inferences which have been drawn from it. It may be necessary however to observe, that villainage did not necessarily imply bondage. Though the tenure was servile, yet the person of the tenant was often free: and many freemen held under the custom of certain manors, by villain services, who were not properly villains. I mention this, Sir, to rectify a vulgar mistake, and to shew, that the state of the tenant did not necessarily follow the nature of the tenure: so that many who held in villainage, might nevertheless be entitled to the benefit of Magna Charta, which speaks of freemen only.

In determining the rights of such freemen, so far as they relate to the present question, it may be proper to consider the ancient state of property. The general state of property was anciently divided into allodial and feudal. The feudal tenants were bound, by the nature of their tenure, to do military service, by attending their lords personally, or by substitute, in the wars. The allodial or free tenures, though they were not bound by their tenures to do military service, were nevertheless obliged, by tax or assessment, to contribute towards the defence of the kingdom.

This general obligation, Sir, upon all men, is altogether agreeable to the rules of the strictest justice. Men enter into society in order to be secure and protected in their persons and property: and it is but just that they should be ready upon all occasions, in some shape or other, to act in defence of that society, from whence

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they derive such security and protection. No man can in conscience desire to be protected by the whole, unless he in his turn is willing to exert himself for the good of the whole.

Here permit me to observe, Sir, that the fundamental law of the land does, in this respect, exactly correspond with the law of reason, which declares that no man can support a claim to liberty in prejudice of the public good; but that he ought to resign his right, or may justly be deprived of it, whenever the common safety demands it. This being the case, upon the footing of the law of reason, and the fundamental laws of the kingdom; allow me to consider how far the act of queen Anne, commonly called the Press Act, deviates from, or opposes, either of these established principles.

Here, Sir, give me leave to insist, that the act of queen Anne is strictly founded on those rational and legal principles, which I have just now stated to this assembly. By that act, for the better recruiting his majesty's land forces and marines, "justices of the peace and commissioners of the land tax are empowered to meet, and any three of them, to raise and levy all able-bodied, idle, and disorderly persons, who cannot, upon examination, prove themselves to exercise and industriously follow some lawful trade or employment, or to have substance sufficient for their support and maintenance, to serve his majesty as soldiers; with an express exemption of every one who has a vote for member of parliament."

Now, Sir, what new hardship does this act impose upon the subject? We find, that by the law of reason, and the common law of the land, every man is bound to defend the state, either in his person, or by his purse. The act therefore obliges no one to do more, than, by the fundamentals of the constitution, he is compelled to perform. None, by this act, are to be pressed into military service, but "such as cannot, upon examination, prove themselves to exercise and industriously follow some lawful trade or employment, or to have substance sufficient for their support and maintenance." Men under this description are not in a capacity to defend the state by means of their property, and therefore they are reasonably and lawfully bound to serve their country in their persons.

The act, Sir, seems to be framed with extraordinary tenderness. The objects of it are only idle and disorderly persons, who do not follow some lawful occupation. Certainly it is rather a benefit than a grievance to the nation to press such men into military service, who caanot fail to be dangerous to civil society. The celebrated Machiavel tells us, that it is good policy to purge the commonwealth of such pernicious members.

As to the express exemption, Sir, in favour of voters, I am surprised to hear gentlemen, who stand up as advocates for liberty, arraign this as an invidious distinction. By the law of the land, every man who has possessions to a certain value, has a right to give his vote for the election of members of parliament. He is looked upon in the eye of the law as a man of property; and is therefore entrusted with the privilege of chusing his own representative, for the preservation and security of such property.

Had the act indiscriminately subjected these men to be pressed as soldiers, it might indeed have been considered as arbitrary and oppressive. It would have been in fact an open violation of the subjects' birthright. For they who, in construction of law, are deemed men of property, by being pressed into military service, might lose their right of appointing members of parliament to guard their property; and would consequently be deprived of that share in the government which the constitution allots them, by means of their representatives. But they who have no property, have no injury done them. They have not, either in law or reason, any share in the administration of the government: and the act therefore does not deprive them of any privilege. The restriction which it lays upon their liberty, by obliging them to serve as soldiers, is no restraint. It is what they were before liable to by the law of the land; and the act only points out a particular mode of enforcing their service, under particular circumstances.

As to what the gentleman, who spoke last, was pleased to observe, that "they who have no other property, have the strongest property in their liberty;" I admit his doctrine, but I beg leave to say, that he is mistaken in his application of it. "Liberty," according to his own definition, and I allow it to be a just one, "consists in not being obliged to do or suffer any thing, but under the direction of known laws." Now the objects of the Press Act suffer no violation of their li-

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berty; since, as I observed before, it compels them to no other duty whatever, than such as they were reasonably and legally bound to perform before the making of that act.

To say that a person wrongfully taken, contrary to the exceptions of the Press Act, has no opportunity of pleading his exemption, is to misinterpret and misrepresent the express words of the act. All persons taken under the authority of that act, are to be examined before the justices of the peace and commissioners of the land tax, or any three of them; before whom, such as are illegally pressed, may prove that they are not within the description of the act.

It is plain from the penning of this act, that the legislature intended, that such examination should be laid before the justices of the peace and commissioners of the land tax, and no others; and, indeed, if appeals were suffered to the superior courts of law, the end of the act would be entirely frustrated.

In criminal cases, Sir, it is just to grant a Habeas Corpus, that the party may be admitted to bail till the issue of the cause is determined. No one is injured by this indulgence. But in the case of an impressed man, the issue, or point in dispute, is personal service; and if this is to be ascertained in a tedious course of litigation, by appeal to the superior courts, the occasion for which his service is required, may be lost before the issue is determined.

I will suppose an instance, Sir, which has lately, and probably will often happen: I will suppose that men are wanted immediately to go upon an expedition, which must owe its success to dispatch in the execution. In this case, if every one who is pressed has a right to appeal to the King's-bench, to decide whether or not he is a proper object within the meaning of the act, the occasion for which he was pressed may, by such delay, be irrecoverably lost, to the irreparable prejudice of the state, and the decision become totally immaterial.

It therefore shewed great wisdom in the legislature to leave this point to be determined in a summary way, before the justices and the commissioners. And I am of opinion, that it would be of ill consequence to the nation, to take this jurisdiction out of their hands. Such is the state of the law. I will now beg leave, Sir, to argue against passing the Bill, upon the footing of particular inconveniences of a more private nature, which will attend it.

It is highly expedient, Sir, in many cases, more especially for the sake of family government, that persons in subordinate capacities should be subject to reasonable confinement, by the authority of those to whom they are under immediate subjection, as wives to their husbands, children to their parents, and servants to their masters.

If the provisions of the Habeas Corpus Act are indiscriminately extended to all cases whatever, it may happen that a wife, under just restraint lest she should violate the honour of her family, may by means of this writ, procure her enlargement, and throw herself into the arms of a profligate adulterer.

A daughter likewise, Sir, under the same circumstances of restraint, only to preserve her from vice and infamy, may, by procuring this writ, fatally procure her liberty, and sacrifice herself in marriage to some worthless suitor, or prostitute her person to feast the appetite of some abandoned gallant.

A refractory and idle apprentice, Sir, who may be also under moderate confinement, lest he should desert the duties of his service, may, by suing out his Habeas Corpus, be set at large, and put in a capacity to run away from his master, and totally to forsake his calling, to which he was bound for his future support.

In all these cases, Sir, and many others of the like nature, it is most advisable to leave the granting of the Habeas Corpus to the discretion of the Court. Should it issue in the manner proposed by the Bill under present consideration, it might encourage applications with no other view than to trouble and harass the parties to whom it may be directed, and put them to a needless and unjust expence.

Besides, Sir, inconveniencies will not only arise to private persons, but the public in general may become sufferers by the proposed extension of the Habeas Corpus Act. I will suppose, that one, on behalf of a person on board an infected ship performing quarantine, should apply for a Habeas Corpus under the provisions of this act, to procure his friend's enlargement. In such case, the act being positive, I know not what could indemnify the party, in case of disobedience, in not bringing him up; and if he should be brought up, the noxious consequence is too obvious to be explained.

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I must confess, Sir, that in whatever light I view this Bill, I do not see any foundation for passing it. I do not think that the particular instance now before us, of a man supposed to be illegally impressed, contrary to the description of the Press Act, has sufficient weight to determine the merits of the matter now under debate.

I could, in this respect, aid the gentlemen on the other side of the question, by citing a more remarkable instance in the person of one formerly impressed as a soldier, on account of the meanness of his apparel, who afterwards proved an ornament to the seat of judgment, as lord chief justice of England. But these rare and uncommon instances, which may happen once in a century, are not a sufficient warrant for making an alteration in the law, which would be productive of so many inconveniences, both of a public and a private nature.

If they who are entrusted with the execution of the Recruiting Act, should now and then take persons not liable to be impressed within the description of that act, yet the persons so taken will be generally found to have been rambling at an improper hour, or to have been in some disorderly and suspicious circumstances; they are, for the most part, such as are dragged out of gaming-houses, or brothels, or apprehended in some midnight riot. I would not insinuate, however, that because they are taken in these circumstances, that therefore they are compellable to serve as soldiers. However, some in particular may be proper objects for such service; yet if they are not described as such in the act, they have an unquestionable right to exemption.

But in such case, Sir, they are not without remedy: for if they are not within the description of the act, they may obtain their discharge upon examination before the justices of the peace and commissioners of the land tax, who are the proper judges constituted by the legislature. For these reasons, Sir, I am entirely against passing the Bill.

The Reply was to this effect:

I must acknowledge, Sir, that the gentlemen who have spoken in opposition to the Bill, have displayed a great deal of learning and ingenuity. But I cannot forbear observing, that the pains they have taken to embellish their arguments, betrays the weakness of their cause: for a profusion of ornament is rather calculated to disguise, than illustrate truth.

However happy they may have been in shewing their own talents to advantage, they have by no means been fortunate in exhibiting a true state of the matter in question. They have set out in error, and all their specious reasonings, and profound subtleties, have served only to draw them a greater distance from the real objects of the present enquiry.

The gentlemen have entered into a great deal of abstruse and ancient learning, with regard to the subjects original claim to liberty at common law: they have talked much of the ancient state of property; and told us, that it was formerly divided into feudal and allodial: and that in both these tenures the tenants were obliged to contribute towards the defence of the state, either in their persons, or by their purse.

They have been pleased to add likewise, Sir, that this obligation at common law, is agreeable to, and conformable with the law of right reason, which declares that every man ought to be compelled to act for the defence of that society from which he receives protection and security.

All these pompous propositions, Sir, I may safely admit, without any prejudice to the cause I endeavour to support. For I hope to make it appear, that the inferences which the gentlemen have drawn from them, are in no degree whatever applicable to the point under consideration.

Pardon me the vanity of observing, Sir, that I have taken some pains, as well as the gentlemen, to study matters of antiquity. As they have thought proper to have recourse to feudal learning, it will be necessary for me likewise to recur to that ancient system of policy; and I shall draw the materials of my argument from the same fountain, though I shall give a different course to the streams of knowledge.

These gentlemen have said truly, that the feudal tenants were originally bound to serve in the wars, either in person, or by substitute. But they have not thought proper to take notice under what circumstances such service was obligatory, or to inform us to what limits it was restrained, or to what extent of time it was confined. As the gentlemen have declined such explanations, I beg leave, so far as I am able, to supply the omissions, and to consider the original obligations to military service.

Here it will be necessary for me to observe, that in William the Norman's time, the distinction between feudal and allodial

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tenants was, in most respects, taken away, and all tenures became feudal. Nevertheless, the distinction, as to some purposes, may be said to have remained; for though all tenures were then of a feudal nature, yet some were held by uncertain, others by certain services.

The uncertain services were performed by the tenant's attending his lord in the wars, either in person or by substitute; and this attendance was confined to a certain number of days, never exceeding forty, sometimes twenty, or ten, according to the quantity of his estate. The certain services consisted of a certain sum of money set upon the tenant, in proportion to his estate, in lieu of military duty: which may be considered in the nature of the assessments upon the allodial tenants. It appears therefore, Sir, that anciently all military services, whether by tenure or assessment, were limited in point of time, and were not indefinite as in the case of men taken under the Press Act.

But this is not all. They were not bound at that time to serve but in case of a war; and by an act of Edward 3, it was provided, "That no man should be distrained or urged, against his will, to go out of his county." Now a state of war in those days, was not determined by the king's proclamation, or by making an inroad into France, or by any foreign campaign whatever; but by the sudden coming of new and strange enemies into the kingdom; in which case the courts of justice were shut up, and when they were open it was deemed a time of peace.

It is evident from hence, Sir, that the subject could formerly be compellable to act in the defensive only. This shews the weakness of the gentlemen's arguments, and proves them to be no ways applicable to the point in question. They have said truly, that, by the ancient law of the land, and by the law of right reason, every man was bound to act for the defence of the state from which he derives protection: but I have shewn that no one was anciently bound to act, but in case of an actual invasion, and then only for a limited time.

Now it cannot be pretended, that the men taken under the Press Act are within this predicament. They are taken, according to the ancient definition, in time of full peace, when the courts of justice are open, and every thing quiet in the kingdom; so that as to them, the case does not exist, from the gentleman's own reasoning, wherein the state may lawfully demand their service, or forcibly deprive them of their liberty.

Besides, Sir, impressed men may be forced out of their country; they may be sent out of the kingdom; nay out of Europe. They are liable to serve likewise for an indefinite time; instead of being limited to forty days, their service may continue for as many years; so that upon the whole, every thing that the gentleman has said with regard to the law of reason, and the ancient law of the land, is totally foreign to the present consideration.

Indeed the question at present under debate, is not concerning the legality of pressing men in general. Though impressed men were formerly volunteers; and were said to be impressed, because, as the word imports, they received advance-money, in consideration of their being always ready for service; yet the Press Act having declared it lawful to force particular objects into the service, it does not become us to dispute the legality of the practice. The sole question now, therefore, is, whether the persons within the exceptions of that act, have not a right to the most speedy remedy for the recovery of their liberty, when wrongfully restrained.

The gentlemen have been pleased to say, that such as are wrongfully taken may obtain their discharge upon examination before the justices of the peace and commissioners of the land tax: and they insist, that the legislature intended to give them a summary jurisdiction without appeal.

But they are unhappily mistaken, both in point of law and fact. Every limited power does in itself imply an appeal to some superior judicatory; and it is against the fundamental principles of our law to delegate a power without appeal in the first instance. Now the power of the commissioners is limited, not discretional: and if they exceed their authority by taking persons excepted in the act, such persons are without remedy, if they have not the benefit of an appeal: for, in that case, the authors of injustice would be the sole judges in their own cause.

It will not be disputed but that several, not within the description of the act, have been impressed, such as voters, journeymen, and others, having sufficient for their support: and if they could have obtained a discharge from their illegal confinement in a summary way before the justices and

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commissioners, they need not have been at the great trouble and expence of suing out writs of Habeas Corpus.

It is manifest, however, that the legislature did not intend to give any such summary jurisdiction. It is a maxim in law, that an act without negative words, shall not repeal the common law, or any precedent act. Now the Press Act, Sir, has no negative words, which defeat or abridge the right of appeal which the subject claims at common law, or on the footing of any prior statute. There can be no doubt, therefore, that the persons in question have a right to their Habeas Corpus at common law; and no valid reasons have yet been urged, or can, I presume, be offered to shew why they should not be entitled to it in the speedy manner as prescribed by the Habeas Corpus Act.

It is true, that the gentlemen's fertile imaginations have supposed a case, where an expedition may be retarded, and the state receive irreparable injury, while persons impressed are supporting their claim to exemption in a course of tedious litigation upon a Habeas Corpus. But this objection, however subtle, is by no means solid; for the real objects of the act, that is, "idle and disorderly persons, who have not sufficient for their support," will not be able to bear the expence of suing a Habeas Corpus; neither will persons in such a mean and indigent condition, find it possible to get security for their not escaping (if remanded) as required by the Habeas Corpus Act.

And they have thought proper to enumerate many terrible inconveniences which they apprehend will follow the free issuing the writ of Habeas Corpus. Wives, they say, under reasonable confinement, for the sake of family government, may be set at large, and cast themselves into the arms of an adulterer: daughters, they observe, under the same circumstances, may obtain their liberty, and throw themselves away in marriage, or fall victims to prostitution; apprentices likewise, they tell us, may gain their freedom, and run away from their masters.

To be sure, Sir, these would be dreadful accidents! but, in the name of common sense, am I, as a member of the public, to be deprived of my right to liberty, because my neighbour may chance to have a salacious wife, a rampant daughter, or an unruly apprentice? Suppose the writ of Habeas Corpus should now and then be issued in frivolous cases, and where family government is not carried beyond the bounds of justice and discretion; I say, suppose it should sometimes be subject to this abuse, is not every remedial process in all, even in civil cases, liable to the like, if not much greater abuse? And was it ever held a sufficient reason against granting a general power or right of redress, that the exercise of that right might in particular cases be abused, and be accidentally productive of an inconvenience to individuals?

But, in fact, Sir, these horrid inconveniences can never arise; and they exist only in the gentlemen's terrified imaginations: for should the benefit of the Habeas Corpus be extended in the manner proposed by the Bill, yet wives, daughters, and apprentices, or any others claiming the benefit of it, will not be set at large to pursue their own corrupt inclinations, but must give security that they will return, in case they are remanded.

As to the supposition, that the penalty of the act may be incurred by disobeying a writ directed for bringing up a person infected out of a ship performing quarantine, or the infection propagated by obeying it, it is too jocular to require serious refutation; for all access to such ship, in order to the service of the writ, is impracticable.

In few words, Sir, unless subjects, restrained of their liberty, have the benefit of the Habeas Corpus Act, all provisions of the law in their favour are nugatory and void; they remain without that speedy relief to which every freeman is entitled; and have no redress for the injury done them by illegal confinement, but by action of false imprisonment, which in some cases will not lie. It cannot be brought by a wife against her husband; and in the case of an impressed man, he may be knocked on the head before he can prosecute it. Indeed, in most cases, the poverty or subjection of the parties confined, in comparison with the power of the persons by whom they are confined, renders it impracticable or imprudent to commence this action, which, at last, can only procure damages, and not a release from confinement.

Did no other reasons influence my judgment, I should think these sufficient, Sir, to justify my concurrence with the friends of the Bill: and I agree with them, that the Habeas Corpus Act should be extended to every commitment or restraint of liberty whatever, but in those cases which they have properly excepted.

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This extension, Sir, seems absolutely necessary to secure us against the tyranny of our fellow subjects, which is, of all others, most to be apprehended; for the mild system of government pursued since the Revolution, affords less appearance of any infringement of liberty, by the crown, or any superior judicatory, than by private persons, and subordinate jurisdictions. I therefore freely give my assent to the Bill.

*Proceedings in the Lords on the Bill to explain and amend the Habeas Corpus Act**.] May 9. The order of the day being read, for the second reading of the Bill, intituled, "An Act for giving a more speedy remedy to the subject upon the writ of Habeas Corpus;" and for the Judges to attend: the said Bill was accordingly read a second time. And some questions being proposed to be put to the Judges: entries in the Journal of this House, of the 9th of April, 1628, 27th of February, and 13th of March, 1704, were read.

After debate; it was agreed, "That the Judges be directed to deliver their Opinions upon the following Questions:

"1. Whether, in cases not within the

* Hardwicke Papers. Debate in the House of Lords, May 9, 1758, on the second reading of the Bill on the Habeas Corpus. From the Original, in the handwriting of Dr. Birch.

Earl of *Hardwicke* opened the debate, and spoke nearly an hour. He urged several general objections to the Bill, reserving himself for more particulars to the committee upon it, if the House should refer it to one.

That there was no occasion for such a Bill, since all the advantages proposed by it were already secured by the common law; and that the inconveniencies, which would arise from it, would be great and extensive, and affect both private persons and the judges themselves.

That the discretion, so much of late the subject of exclamation, which is, and has been always, exercised by the judges, is not arbitrary, but merely judging according to law.

That the manner of subjecting them to the penalties prescribed by the Bill, for refusing a writ of Habeas Corpus, is vague and uncertain, and might involve those in the penalty, who had no share in the refusal.

That the obliging them to issue the writ upon the application of any one, who shall swear, that another is in custody, would put it into the power of a great number of people, who, for half a crown, will be ready to appear on such occasions, (as they do to swear themselves creditors of bankrupts, in order to sign their certificates), to force husbands to bring up their wives, fathers their daughters, physicians, &c. lunatics, from the remotest parts of his majesty's dominions at their own expence, without the least satisfaction from the persons who make such application, though there should be found not the least grievance in the case.

That this obligation of producing the party confined extends by the Bill even to the islands of Guernsey and Jersey, since the Bill is as unlimited as that for the Habeas Corpus in 1677.

That persons even committed for treason and felony may, upon an affidavit of their commitment, though concealing the cause of it, be brought up from the most distant parts at the hazard of, and with a view to, a rescue.

That he had, indeed, long been sensible of one defect in the law with respect to the Habeas Corpus, and wished it to be supplied; but that there was not the least provision for it in the present Bill: and that was a power to a single judge, during the vacation, to inforce a speedy return to a writ of Habeas Corpus granted by him.

His lordship therefore proposed, that previously to any farther proceedings on the Bill, and for the better information of the House with regard to the necessity and consequences of it, the judges might give their opinions upon three questions, which his lordship read; and of which the first being put,

Earl *Temple* rose, and spoke much and warmly of the importance of liberty, and of this Bill to the security of it; and regretted, that his own ill state of health as well as slender abilities would not allow him to do justice to the subject. He hoped, that the House would not suffer itself to be too much influenced on such questions by the authority of two lords, whose eminence in the knowledge of the law he acknowledged; and he desired still more importunately, that it would not depart from its own dignity by referring questions to the judges, which their lordships' ancestors had already determined; and in which those judges themselves were interested, and by the determination of which they might acquire a power formidable to the peers themselves, who might suffer by it even for their conduct in that House. That he would not take the law from the judges as to the main principles of it, any more than he would ask the bench of bishops about the great outlines of his religion. He then desired, that the Journals of the Lords concerning the liberty of the subject in the years 1628, 1641, 1677, and 1704; the resolutions of their lordships in 1704, in the case of the Aylesbury men, being drawn up by lord Somers.

The Earl of *Hardwicke* in his answer, which was above an hour long, expressed his great astonishment, that the noble lord should oppose

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Act 31st Car. 2, cap. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought to issue of course, or upon probable cause verified by affidavit?

"2. Whether, in cases not within the said act, such writs of Habeas Corpus, by the law as it now stands, may issue in the vacation by fiat from a judge of the court of King's-bench, returnable before himself.

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the hearing of the judges, which had always been granted, and, he believed, had never before been opposed: but it implied great diffidence of the merits of the Bill, when the patrons of it were averse to have any farther light given to the House on the subject: and that this reluctance to the hearing of the sentiments of the judges was the more extraordinary in the noble lord, as he had entertained the House not only with his own opinion, but likewise that of an old and able practitioner (Mr. Fazakerley) in Westminster Hall. That he was persuaded, that his lordship could not mean, and did not feel the force of the reflections, which he had thrown out on the judges; since such reflections were as improper as they were undeserved, no body of men since the Revolution being less liable to the suspicion of corruption or any false bias than they.

That the consequence of lessening the credit of the law, and the character and reputation of those intrusted with the execution of it, was highly dangerous; since, whatever might be the abilities of a minister of state, the public safety did not depend upon them, but upon the due regard paid to, as well as the just administration of, the civil authority.

With regard to the resolutions of the House, read from their Journals, the sense of them must be determined from a consideration of the purposes for which they were made, and the circumstances which occasioned them. That in the case of the Aylesbury men, when the House resolved, that 'every Englishman, 'who is imprisoned by an authority, has an 'undoubted right, by his agents or friends, to 'apply for and obtain a writ of Habeas Corpus, 'in order to procure his liberty, by due course 'of law:' the last words show, that it was not intended, that he should have his liberty, unless he should be found intitled to it by law.

That the resolutions of the parliament in 1628 must be understood not by the force of general expressions, but with a reference to the circumstances of that time, and the abuses of the power of the crown.

That the resolutions of the Long Parliament, which granted an immediate discharge by Habeas Corpus, restrained it to the cases of commitments by the suppressed courts of star-chamber, and of the lord president of York, and the marches of Wales, and by the king and privy council.

That the law was the guardian and security of the public liberty, and ought to be sacred, in order to prevent liberty from degenerating into licentiousness: and that no considerable alterations ought to be made in the system of it but upon evident necessity and for most obvious utility.

That for his own part he highly esteemed the good opinion of the public, and was always desirous to deserve it, though he could not wish to gain it by means inconsistent with his judgment and conscience. That as in the great offices, which he had had the honour of holding, he had constantly given to his gracious master, (who always desired it,) his sincere opinion; he would not, in his old age, court popularity by concurring in any measure, which, however disguised by false colouring, he was thoroughly convinced to be really injurious to the public.

The Earl of *Granville's* speech seemed designed more for the diversion of the House than for delivering his own opinion, much less for inforcing it. His chief topic, in favour of the Bill, was the popularity of it, though he observed, that he should scarce be reproached with ever having been much biassed by that consideration: that the nation being in a great fermentation on the subject of it, (and the more unnatural the fermentation, the more dangerous), the House had better pass the Bill at first than at last, since it was likely to be sent up to them every year till they did so; and that the approach of a new election of parliament would force them to do as they had done in the repeal of the Jew Bill.

Lord *Mansfield* spoke half an hour, and begun with excusing the zeal shewn by many persons for the Bill, from their total ignorance of what it was, and their groundless imagination, that liberty was concerned in it, which had no more connection with the Bill than with the Act of Navigation, or that for encouraging the cultivation of madder. That ignorance, in subjects of this kind, was extremely pardonable; since the knowledge of positive laws required a particular study of them, and the greatest genius, without such study, could no more become master of them than of what was contained in the Japanese history, without understanding the language of the country.

That the writ of Habeas Corpus was undoubtedly a writ of right, but not a writ of course: and that it never had been granted but upon a case stated, and shewing the person's right, who claimed it.

That with regard to some facts said to have happened, and some questions reported to have been started, in the court of King's-bench, he denied that the latter had ever existed, for which he appealed to the judges of that court then present in the House: and he affirmed, that the representations, which had been so industriously propagated of what had passed in that court, and alluded to in this debate by lord Granville, had no foundation nor any authority but that of men, who could know no-

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"3. What effect will the several provisions proposed by this Bill, as to the awarding, returning, and proceeding upon returns to such writs of Habeas Corpus, have in practice? and how much will the same operate to the benefit or prejudice of the subject?

"4. Whether, at the common law, and before the statute of Habeas Corpus in the 31st of king Charles 2, any and which of the judges could regularly issue a writ of Habeas Corpus ad subjiciendum in time of vacation, in all or in what cases particularly?

"5. Whether the judges at the common law, and before the said statute, were bound to issue such writ of Habeas Corpus ad subjiciendum in time of vacation, upon the demand of any person under any restraint? or might they refuse to award such writ, if they thought proper?

"6. Whether the judges, at the common law, and before the said statute, were bound to make such writs so issued in time of vacation returnable *immediate*? and could they enforce obedience to such writ issued in time of vacation, if the party served therewith should neglect or refuse to obey the same, and by what means?

"7. Whether, if a judge, before the said statute, should have refused to grant the said writ upon the demand of any person under any restraint, had the subject any remedy at law, by action or otherwise, against the judge, for such refusal?

"8. Whether, in case a writ of Habeas Corpus ad subjiciendum at the common law be directed to any person, returnable *immediate*, such person may not stand out an Alias and Pluries Habeas Corpus, before due obedience thereto can be regularly enforced by the course of the common law?

"9. Whether the said statute of the 31st of king Charles 2, and the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority, or to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment or detainer for criminal, or supposed criminal matters?

"10. Whether, in all cases whatsoever, the judges are so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them, although it should appear most manifestly to the judges, by the clearest and most undoubted proof, that such return is false in fact, and that the person so brought up is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice?"

And thereupon the Lord Chief Justice of the Court of Common Pleas, having conferred with the rest of the judges pre-

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thing of the matter; for he could fully acquit all the practitioners of that court. He put in his claim for doing farther justice to himself in the course of the proceedings on that Bill; and concluded with affirming, that in the case of the man unjustly impressed, he had taken a method for his more speedy relief than that by an Habeas Corpus; and that the Habeas Corpus had not been refused.

His lordship, touching upon lord Granville's disavowing popularity, remarked, that his lordship would at last have it for his conduct in some points, in which he had neglected it, when those points should come to be better understood: that the people are indeed often cited for opinions and demands, which are far from being their own, but artfully infused into them; that there was an instance of this in a Bill (that of the Militia) which was demanded in their name as the only means of saving the nation from foreigners both friends and enemies, and even from the army paid by it: and yet when they had got this, they so highly disliked it, as to prevent the execution of it by rebellion in several counties; for which a few had actually suffered death, and many hundreds had equally deserved it.

The Duke of *Newcastle* urged the motion for referring lord Hardwicke's three questions to the judges.

Lord *Talbot* spoke shortly and temperately for the Bill.

Lord *Denbigh* was for the commitment of the Bill, throwing some ridicule upon the law, and what had been produced from it, as absolutely incomprehensible to him; mentioning the hardship of the particular case of an impressed man at the Savoy, who however was soon relieved by a writ of Habeas Corpus from a judge, who sent for the captain of the Savoy, and obliged him to produce the man.

Earl *Temple* seemed, at the close of the debate, to deny his having opposed the putting the questions to the judges, alledging, that his intention was only to oppose such questions as had been already determined by the House; and that he had actually prepared some questions, which he desired the liberty of putting to them.

It was then unanimously agreed, that lord Hardwicke's and lord Temple's questions should be proposed to the judges, who are to deliver in their answers on Thursday the 25th instant.

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sent, desired that some time might be allowed them to consider the said questions; and represented, "That, from the necessary business of some of the judges, they could not possibly consider the said questions so as to be able to deliver their opinions thereupon in this week."

Ordered, That the farther consideration of the said Bill be adjourned till the first Thursday after the approaching recess: and that the judges do then attend, to deliver their Opinions *seriatim*, with their Reasons upon the said Questions.

May 25. The order of the day being read, for resuming the adjourned consideration of the Bill, intitled, "An Act for giving a more speedy remedy to the subject upon the writ of Habeas Corpus;" and for the Judges to attend, to deliver their opinions *seriatim*, with their reasons, upon the several questions put to them on the 9th instant, upon the second reading of the said Bill:

The *Lord Keeper* informed the House, "That the Judges desired that the Lord Chief Justice of the Common Pleas might be heard, to submit a matter to the consideration of the House, before they proceeded to deliver their opinions upon the said questions."

Whereupon the Lord Chief Justice *Willes* acquainted the House, "That the Judges were prepared to give their opinions upon nine of the ten questions which were put to them; but hoped they should be excused answering to the 3rd question, for reasons which he suggested to the House."

And thereupon the 3rd question was waved, by acquiescence of the House.

Then Mr. Justice *Noel* was heard, upon the said several questions, except the 3rd, which was waved by the House. And,

1. Upon the first question, delivered his opinion, "That, in cases not within the act 31st Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. and 4. Upon the 2nd and 4th questions, delivered his opinion, "That at the common law, before the statute 31 Car. 2, no judge could regularly issue a writ of Habeas Corpus ad subjiciendum in vacation; but, by the law as it now stands, upon the practice of the court of King's-bench ever since the said statute, such writs may issue in the vacation by a fiat from a judge of the court of King's-bench, returnable before himself, in cases not within the said act." With his reasons.

5. Upon the 5th question, delivered his opinion, "That the judges at the common law, and before the said statute, were not bound to issue such writs of Habeas Corpus ad subjiciendum in vacation, upon the demand of any person under restraint; and might refuse to award such writ, if they thought proper, in the time of vacation."

6. Upon the 6th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to make such writs, so issued in vacation, returnable *immediatè*; and they could not enforce obedience to such writ issued in the vacation, if the party served therewith should neglect or refuse to obey the same."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, should have refused to grant the said writ upon the demand of any person under any restraint, the subject had not any remedy at law, by action or otherwise, against the judge, for such refusal."

8. Upon the 8th question, delivered his opinion, "That in case a writ of Habeas Corpus at the common law had been directed to any person returnable *immediatè*, the court always granted an Alias and Pluries Habeas Corpus before due obedience could be enforced; but, since the statute 31st Car. 2, the Alias and Pluries have been omitted."

9. Upon the 9th question, delivered his opinion, "That the statute 31st Car. 2, and the provisions therein made, for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority, nor to any cases of imprisonment, detainer, or restraint, except cases of commitment for criminal or supposed criminal matter."

10. Upon the 10th question, delivered his opinion, "That the judges are not in all cases whatsoever so bound by the return to the writ of Habeas Corpus, that they cannot discharge the person brought before them, if it should appear most manifestly to the judges, by the clearest and most undoubted proof, that such return is false in fact, and that the person so brought up is restrained of his liberty by the most unwarrantable means, and in di-

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rect violation of law and justice." With his reasons.

Then Mr. Justice *Wilmot* was heard upon the said several questions, except the 3rd, which was waved. And,

1. Upon the 1st question, delivered his opinion, "That in cases not within the act 31st Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question, delivered his opinion, "That in cases not within the act 31st Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, may issue in the vacation by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That after the Restoration, and before the statute 31st Car. 2, the chief justice, and other judges of the court of King's-bench did, in fact, issue writs of Habeas Corpus ad subjiciendum, in time of vacation, in criminal cases; and thinks such practice was legal, and warranted by the same principles which now support the practice of issuing writs in vacation in all cases which are not within the 31st Car. 2, but thinks there was no settled regular practice of issuing writs of Habeas Corpus ad subjiciendum in vacation, in any case before the statute 31st Car. 2, at the instance of a person under restraint." With his reasons.

5. Upon the 5th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not, nor are now, bound to issue such writs of Habeas Corpus in time of vacation, upon the demand of any person under restraint; and, if they thought proper, might, and now may, refuse to issue such writs upon the demand of any person under restraint; for he thinks a copy of the commitment must be produced, or there must be some case made, before the judges are, or ever were, bound to grant such writs at the instance of a person under restraint."

6. Upon the 6th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to make writs of Habeas Corpus ad subjiciendum issued in vacation time returnable *immediatè*; and thinks the judges, in time of vacation, cannot enforce obedience to any writs of Habeas Corpus issued in time of vacation, whether they issue in cases within the 31st Car. 2, or in cases out of that act, if the party served therewith should neglect or refuse to obey the same by any means whatsoever."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, should have refused to grant the said writ upon the demand of any person under restraint, the subject had no remedy at law, by action or otherwise, against the judge for such refusal."

8. Upon the 8th question, delivered his opinion, "That in case a writ of Habeas Corpus ad subjiciendum at the common law, and before the statute, had been directed to any person, returnable *immediatè*, such person might have stood out an Alias and Pluries Habeas Corpus, before due obedience thereto could have been regularly enforced by the course of the common law: but the method of proceeding by Alias and Pluries in cases out of the act of 31 Car. 2, has been long gone into disuse: and in case a writ of Habeas Corpus ad subjiciendum at the common law be now directed to any person, returnable *immediatè*, he is of opinion, that the court would enforce obedience to such writ by attachment."

9. Upon the 9th question, delivered his opinion, "That the said statute of the 31st of Charles 2, and the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority; or to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment for criminal or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That in no cases whatsoever, the judges are so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them, if it should appear most manifestly to the judges, by the clearest and most undoubted proof, that such return is false in fact; and that the person so brought up is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice; but by the clearest and most undoubted proof he means the verdict of a jury, or judgment on demurrer, or otherwise, in an action for a false return: and, in case the facts averred in the

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return to a writ of Habeas Corpus are sufficient in point of law to justify the restraint, he is of opinion, that the court, or judge before whom such writ is returnable, cannot try the facts averred in such return by affidavits in any proceeding grafted upon the return to the writ of Habeas Corpus." With his reasons.

Then, it being moved to adjourn;

Ordered, That the farther consideration of the said Bill, and hearing the opinions of the rest of the judges upon the said questions, be adjourned till to-morrow; and the Lords to be summoned.

May 26. The order of the day being read, for resuming the adjourned consideration of the Bill, intituled, "An Act for giving a more speedy remedy to the subject upon the writ of Habeas Corpus,"

Mr. Justice *Bathurst* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That in cases not within the words of the act of the 31st of Charles 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable causes verified by affidavit." And gave his reasons.

2. and 4. Upon the 2nd and 4th questions, delivered his opinion, "That at common law, and before the 31st Car. 2, no judge could regularly issue a writ of Habeas Corpus ad subjiciendum, returnable before himself, in time of vacation, for the purpose of bailing or discharging; but by the law as it now stands, such writ may issue in the vacation, by fiat from a judge of the court of King's-bench." With his reasons.

5. Upon the 5th question, delivered his opinion, "That no judge at the common law, and before the said statute, was bound to issue such writ of Habeas Corpus ad subjiciendum in time of vacation, upon the demand of any person under restraint; and the judges might refuse to award such writ, if they thought proper."

6. Upon the 6th question, delivered his opinion, "That the judges by the common law, and before the statute, were not bound to make such writ, so issued in time of vacation, returnable *immediatè*; and they could not enforce obedience to such writ issued in time of vacation, if the party served therewith refused to obey the same."

7. Upon the 7th question, delivered his opinion, "That the subject had not any remedy, by law or otherwise, against a judge for what he did in his judicial capacity before the statute 31 Car. 2."

8. Upon the 8th question, delivered his opinion, "That at common law, the court always granted an Alias and Pluries Habeas Corpus before they enforced obedience by attachment or otherwise; but since the statute of the 31st Car. 2, the practice has been in that respect altered."

9. Upon the 9th question, delivered his opinion, "That the words of the statute 31 Car. 2, and of the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour or legal authority; or to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment for criminal or supposed criminal matter; but [in favour of liberty, the judges of the court of King's-bench have, in conformity to that statute, extended the same relief to all cases."

10. Upon the 10th question, delivered his opinion, "That the judges are not in all cases so bound by the return to the writ of Habeas Corpus, that they cannot discharge the person brought before them, in case it manifestly appears to them that such return is false, and that the person is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice." With his reasons.

Then Mr. Baron *Adams* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That in cases not within the act 31 Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question, delivered his opinion, "That, in cases not within the said act, by the law as it now stands, such writs may issue, in time of vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question said, "That it appears to him, that at the common law, before the Restoration, the judges did not issue such writs of Habeas Corpus at the prayer of the subject in time of vacation, but that it began first to be put in practice about that time; yet he cannot say, they could not have done it before, as the same authority which warranted their doing it

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then, would have warranted it before, had it been thought necessary or expedient."

5. Upon the 5th question, delivered his opinion, "That the judges at common law, and before the said statute, while no such practice was as yet settled and established by usage, were not bound to issue such writs of Habeas Corpus in time of vacation, but apprehends that the judges of the court of King's-bench, upon a case properly laid before them, are bound at this day, the practice standing confirmed and established by so long an usage, to issue such writ in the vacation in cases not within the said statute." With his reasons.

6. Upon the 6th question, delivered his opinion, "That as at the common law, and before the said statute, the judges were not bound to issue such writs of Habeas Corpus in the vacation, so they were not bound to make it returnable *immediatè*, nor had any means of enforcing obedience to it."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, had refused to grant a writ of Habeas Corpus, the subject had no remedy against the judge for such refusal."

8. Upon the 8th question, delivered his opinion, "That in no case a single judge could do more than grant an Alias or Pluries Habeas Corpus; but as to writs issued by the court, the court have of late years adopted a practice of granting an attachment to enforce obedience to the first writ."

9. Upon the 9th question, delivered his opinion, "That the said statute of 31st of king Charles 2, and the several provisions therein, do not extend to any cases of imprisonment or restraint whatsoever, except cases of criminal or supposed criminal matter."

10. Upon the 10th question, delivered his opinion, "That if an action was brought for a false return made to an Habeas Corpus, and therein the return should be falsified by judgment upon verdict, demurrer, or otherwise, the judges might thereupon issue an Alias Habeas Corpus, and upon that discharge the party; but that, in all cases whatsoever, when the matter comes before the court, singly upon the return made to the Habeas Corpus, if that return contains a sufficient and justifiable cause of restraint, the judges must determine upon the cause as it there appears, and cannot hear any proof in contradiction to it; but are so bound by the facts set forth therein, that though they be false in fact, and the party in truth restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice, they cannot discharge him, but he is driven to his action." With his reasons.

Then Mr. Baron *Smythe* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That, in cases not within the act 31st Car. 2, cap. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question, delivered his opinion, "That in cases not within the said act, such writs of Habeas Corpus, by the law as it now stands, may issue in the vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That, at the common law, and before the said statute of the 31st of king Charles 2, the judges of the court of King's bench could issue such writs of Habeas Corpus in time of vacation, where a probable cause was shewn, that the person was unjustly imprisoned, or bailable." With his reasons.

5. Upon the 5th question, delivered his opinion, "That at the common law, and before the said statute, the judges of the court of King's-bench were bound to issue such writs of Habeas Corpus in time of vacation, if a probable cause was shewn, but not without."

6. Upon the 6th question, delivered his opinion, "That the judges at the common law, and before the said statute, were not bound to make such writs, so issued in time of vacation, returnable *immediatè*, but ought to make them returnable before themselves, or in court, as would best answer the purposes of justice. They could not in vacation-time enforce obedience to such writ; but, if the party served therewith should neglect or refuse to obey the same, the court of King's-bench, in the next term, could enforce obedience to such writ by attachment."

7. Upon the 7th question, delivered his opinion, "That a judge, before the said statute, for his refusal to grant a writ of Habeas Corpus, where he ought to have granted it, would have been liable to punishment, in the same manner as for any other breach of his duty."

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8. Upon the 8th question, delivered his opinion, "That, in case such writ of Habeas Corpus, at the common law, be directed to any person returnable *immediatè*, such person may stand out an Alias and Pluries, if the party suing out the writ chuses to sue out an Alias and Pluries Habeas Corpus; but the court will grant an attachment for the first disobedience, without putting the party to his Alias and Pluries."

9. Upon the 9th question, delivered his opinion, "That the said statute of the 31st of king Charles 2, and the several provisions therein, do not extend to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment for criminal, or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That the judges were so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot enter into proof by affidavits to controvert the return, the facts set forth in the return can be controverted or contradicted only by the verdict of a jury." With his reasons.

Then it being moved, 'to adjourn the consideration of the said Bill till Tuesday next:'

Ordered, That the further consideration of the said Bill, and hearing the opinions of the rest of the judges upon the said questions, be adjourned till Tuesday next: and the Lords to be summoned; and that the Judges do then attend.

May 30. The order of the day being read for resuming the adjourned consideration of the Bill intituled, "An Act for giving a more speedy remedy to the subject, upon the writ of Habeas Corpus;" and for the rest of the judges to deliver their opinions upon the several questions put to them upon the second reading of the said Bill, except the third question, which was waved by the House:

Mr. Baron *Legge* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That, in cases not within the act 31st Car. 2, cap. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question delivered his opinion, "That, in cases not within the said act, such writs of Habeas Corpus, by the law as it now stands, may issue in the vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That, at the common law, and before the statute of Habeas Corpus in the 31st of king Charles 2, no judge could regularly issue a writ of Habeas Corpus ad subjiciendum, in time of vacation, in any case." With his reasons.

5. Upon the 5th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to issue such writ of Habeas Corpus ad subjiciendum, in time of vacation, upon the demand of any person under restraint; but might refuse to award such writ, if they thought proper."

6. Upon the 6th question delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to make such writs, issued in time of vacation, returnable *immediatè*, and could not enforce obedience to such writ issued in time of vacation, if the party served therewith should neglect or refuse to obey the same, by any means."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, should have refused to grant the said writ upon the demand of any person under any restraint, the subject had not any remedy at law, by action or otherwise against the judge for such refusal."

8. Upon the 8th question, delivered his opinion, "That in case a writ of Habeas Corpus ad subjiciendum, at the common law, had been directed to any person, returnable *immediatè*, such person might have stood out an Alias and Pluries Habeas Corpus, before due obedience thereto could have been regularly enforced by the course of the common law; but as the law now stands, the practice has long prevailed, for the court of King's-bench to enforce the first Habeas Corpus by an attachment."

9. Upon the 9th question, delivered his opinion, "That the said statute of the 31st of king Charles 2, and the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority; or to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment for criminal or supposed criminal matters."

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10. Upon the 10th question, delivered his opinion, "That the judges are not in all cases whatsoever so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them, although it should appear most manifestly to the judges, by the clearest and most undoubted proof, that such return is false in fact; and that the person so brought up is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice." With his reasons.

Then Mr. Justice *Clive* was heard upon the same questions. And,

1. Upon the 1st question, delivered his opinion, "That, in cases not within the act of 31st Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2 and 4. Upon the 2nd and 4th questions, delivered his opinion, "That, at the common law, and before the statute 31st Car. 2, no judge could regularly issue a writ of Habeas Corpus ad subjiciendum in time of vacation; but by the law as it now stands, such writs may issue in the vacation, by fiat from a judge of the court of King's-bench, returnable before himself." With his reasons.

5. Upon the 5th question, delivered his opinion, "That no judge by the common law, and before the said statute was bound to issue such writs of Habeas Corpus ad subjiciendum in time of vacation upon the demand of any person under restraint, and the judges might refuse to award such writ."

6. Upon the 6th question, delivered his opinion, "That the judges by the common law, and before the said statute, were not bound to make such writs, so issued in time of vacation, returnable *immediatè*, and they could not enforce obedience to such writ issued in time of vacation, if the party served therewith refused to obey the same."

7. Upon the 7th question, delivered his opinion, "That the subject had not any remedy, by law or otherwise, against a judge for what he did in his judicial capacity, before the said statute 31st Car. 2."

8. Upon the 8th question, delivered his opinion, "That at common law, the court always granted an Alias and Pluries Habeas Corpus before they enforced obedience by attachment."

9. Upon the 9th question, delivered his opinion, "That the words of the statute of the 31st Car. 2, and of the several provisions therein made, for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority; or to any cases of imprisonment, detainer, or restraint, whatsoever, except cases of commitment for criminal or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That the judges are not in all cases so bound by the return to the writ of Habeas Corpus, that they cannot discharge the person brought before them, in case it manifestly appears to them that such return is false, and that the person is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice." With his reasons.

Then Mr. Justice *Dennison* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That in cases not within the act of the 31st of king Charles 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question, delivered his opinion, "That, in cases not within the said act, such writs of Habeas Corpus, by the law as it now stands, may issue in the vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That before the statute of the 31st of king Charles 2, the judges of the court of King's-bench, by usage, might issue a writ of Habeas Corpus ad subjiciendum in time of vacation." With his reasons.

5. Upon the 5th question, delivered his opinion, "That the judges of the court of King's-bench might issue such writs in time of vacation, upon probable cause proved by affidavits; but the usage was not certainly established."

6. Upon the 6th question, delivered his opinion, "That the judges of the court of King's-bench, before the said statute, might make such writs returnable either *immediatè*, or in the subsequent term; but could not enforce obedience to such writ issued in the vacation; but it might be done in the subsequent term."

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7. Upon the 7th question, delivered his opinion, "That if a judge, before the statute, should have refused to grant the said writ upon demand, no action would lie against him."

8. Upon the 8th question, delivered his opinion, "That, before the said statute, the party might stand out an Alias and Pluries: but, since the said statute, the course hath been to grant an attachment without any Alias or Pluries."

9. Upon the 9th question, delivered his opinion, "That the said statute of the 31st of king Charles 2, and the several provisions therein made, for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority: or to any cases of imprisonment, detainer, or restraint whatsoever, except cases of commitment for criminal or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That, in all cases whatsoever, where the return consists of facts justifying the taking and detaining by law, the judges are so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them upon affidavits to be read in that proceeding, contradicting the facts contained in the return; but, if it should appear most manifestly to the court by the clearest and most undoubted proof, either in action or in some collateral proceeding, that such return is false in fact, and that the person so brought up is restrained of his liberty by unwarrantable means, and in direct violation of law and justice, the prisoner may be discharged." With his reasons.

Then the Lord Chief Baron *Parker* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That, in cases not within the act of the 31st of king Charles 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2nd question, delivered his opinion, "That, in cases not within the act of the 31st of king Charles 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, may issue in vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That, before the statute of the 31st of king Charles 2, some of the judges of the King's-bench did, in fact, issue writs of Habeas Corpus ad subjiciendum in time of vacation; but it does not appear to his satisfaction, that there was any certain settled practice for issuing writs of Habeas Corpus ad subjiciendum in vacation, before the statute of the 31st of king Charles 2, upon the application of a person under restraint; but it has been shewn that, in two instances before the said statute, the court disapproved of such practice; and he is therefore inclined to think, that the judges of the court of King's-bench could not, before the said statute, regularly issue a writ of Habeas Corpus ad subjiciendum, for the purpose of discharging or bailing any person so under restraint as aforesaid, though he cannot positively say that they could not do so."

5. Upon the 5th question, delivered his opinion, "That the judges at the common law, and before the said statute, were not bound to issue such writ of Habeas Corpus ad subjiciendum in time of vacation upon the demand of any person under restraint, but might refuse to award such writ, if a proper foundation was not laid for it by affidavit."

6. Upon the 6th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to make writs of Habeas Corpus ad subjiciendum, issued in vacation, returnable *immediatè*; nor could they in time of vacation enforce obedience to such writ issued in time of vacation, if the party served therewith should neglect or refuse to obey the same, by any means whatsoever."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, should have refused to grant the under any said writ, upon the demand of any person restraint, the subject had not any remedy at law, by action or otherwise, against the judge for such refusal."

8. Upon the 8th question, delivered his opinion, "That in case a writ of Habeas Corpus ad subjiciendum, at the common law, and before the said statute, had been directed to any person, returnable *immediatè*, such person might have stood out an Alias and Pluries Habeas Corpus before due obedience thereto could have been regularly enforced by the course of the common law; but the method of proceeding by Alias and Pluries Habeas Corpus, in cases out of the said statute, has been

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long discontinued; and, in case a writ of Habeas Corpus ad subjiciendum at the common law be now directed to any person returnable *immediatè*, he thinks that the court would enforce obedience to such writ by attachment."

9. Upon the 9th question, delivered his opinion, "That the said statute of the 31st of king Charles 2, and the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority; or to any cases of imprisonment, detainer or restraint whatsoever, except cases of commitment for criminal or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That in no case whatsoever the judges are so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them, if it should appear most manifestly to the judges, by the clearest and most undoubted proof, that such return is false in fact, and that the person so brought up, is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice; but, by the clearest and most undoubted proof, he understands the verdict of a jury, or judgment on demurrer or otherwise, in an action for a false return; and, in case the facts returned to a writ of Habeas Corpus shew a sufficient ground in point of law for such restraint, he is of opinion, that the court, or judge, before whom such a writ is returnable, cannot try the facts contained in such return by affidavits." With his reasons.

Then the Lord Chief Justice *Willes* was heard upon the said questions. And,

1. Upon the 1st question, delivered his opinion, "That, in cases not within the act 31st Car. 2, writs of Habeas Corpus ad subjiciendum, by the law as it now stands, ought not to issue of course, but upon probable cause verified by affidavit." And gave his reasons.

2. Upon the 2d question, delivered his opinion, "That, in cases not within the said act, such writs of Habeas Corpus, by the law as it now stands, may issue in the vacation, by fiat from a judge of the court of King's-bench, returnable before himself."

4. Upon the 4th question, delivered his opinion, "That, at the common law, and before the statute of the 31st of king Charles 2, none of the judges could regularly issue an Habeas Corpus ad subjiciendum in time of vacation, in any case whatsoever." With his reasons.

5. Upon the 5th question, delivered his opinion, "That the judges, at the common law, and before the said statute, were not bound to issue such writs of Habeas Corpus ad subjiciendum in time of vacation, upon the demand of any person under restraint; but that they might refuse to award such writ, if they thought proper."

6. Upon the 6th question, delivered his opinion, "That the judges, at the common law, before the said statute, were not bound to make such writs, so issued in time of vacation, returnable *immediatè*; and that they could not enforce obedience to such writs issued in time of vacation, if the party served therewith should neglect or refuse to obey the same, by any means whatsoever, before the next term."

7. Upon the 7th question, delivered his opinion, "That if a judge, before the said statute, should have refused to grant the said writ upon the demand of any person under any restraint, the subject had not any remedy at law, by action or otherwise, against the judge for such refusal."

8. Upon the 8th question, delivered his opinion, "That, in case a Habeas Corpus ad subjiciendum, at the common law, had been directed to any person, returnable *immediatè*, such person might stand out an Alias and Pluries Habeas Corpus before due obedience thereto could be regularly enforced by the course of the common law."

9. Upon the 9th question, delivered his opinion, "That the words of the statute of the 31st Car. 2, and the several provisions therein made for the immediate awarding and returning the writ of Habeas Corpus, do not extend to the case of any man compelled against his will, in time of peace, either into the land or sea service, without any colour of legal authority; nor to any cases of imprisonment, detainer, or restraint, except cases of commitment for criminal or supposed criminal matters."

10. Upon the 10th question, delivered his opinion, "That the judges are not in all cases whatsoever so bound by the facts set forth in the return to the writ of Habeas Corpus, that they cannot discharge the person brought up before them,

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though it should appear most manifestly to them, by the clearest and most undoubted proof, that such return is false in fact, and that the person so brought up is restrained of his liberty by the most unwarrantable means, and in direct violation of law and justice." With his reasons.

Then it was proposed, "That the following Question be put to the Judges;" viz.

"Whether, if a writ of Habeas Corpus ad subjiciendum at the common law be applied for, either in term or vacation time, by the friend or agent, and on the behalf of any person under actual confinement or restraint; and if the person so applying should make an affidavit of such confinement or restraint, and that he believes the same not to be by virtue of any commitment for criminal or supposed criminal matter, but should declare, that he could give no other material information relative thereunto; would such an affidavit, as the law now stands, be a proper probable cause for the awarding of the said writ of Habeas Corpus? And would the court, or judge, be bound immediately to award the same as a writ of right? Or would the court, or judge, be bound to refuse the same upon such affidavit only? Or is it in such case entirely left to the discretion of the court, or judge, to grant the said writ of Habeas Corpus to one person upon such affidavit, and refuse it to another upon such affidavit, if they shall so think fit."

And the same being objected to: after debate; the question was put, "Whether the said question shall be put to the Judges?" It was resolved in the negative.

"Dissentient.

"1. Because the case stated in this question tends to ascertain the nature, degree, and extent, of that dangerous discretion now contended for, in awarding writs of Habeas Corpus ad subjiciendum, to which discretion no bounds, by the terms of the opinions delivered by the Judges, are as yet set. And this matter is not stated in any other of the questions proposed to them; nor doth it appear by any of their answers, whether this precise case, exactly the same as that required by the Bill under deliberation, be, or be not, in their opinion, as the law now stands, a proper probable cause for the awarding of the writ aforesaid.

"2. Because one of the principal reasons urged in the debate, for not allowing this question to be proposed to the Judges, was, that the asking it implied an imputation upon them, by supposing they would grant it to one person, and refuse it to another on the same case; whereas, the question is not, whether they would, but whether by law they could, exercise such a discretion; and it is of importance to ascertain whether, in their opinion, the character and credibility of the person applying upon oath for the writ can and ought to determine the judge in the exercise of that discretion.

"3. Because there is great reason to believe that, if this question had been suffered to be put, it might have appeared, that an actual confinement or restraint, verified in the manner stated in the question and Bill, is, by the law as it now stands, a sufficient cause for the granting the said writ; and, consequently, that the provisions contained in this Bill to enforce the awarding it, and a speedy obedience in the return thereto, are agreeable to the fundamental principles of law and justice, and essentially necessary to the freedom of the subject. TEMPLE, C. P. S."

Notice was taken of some words that passed in the debate, between the lord Lyttelton and earl Temple. And thereupon the said lords (being required thereto by the House) severally declared upon their honour, "That they would not pursue any farther resentment upon occasion of the words that had passed between them."

Then it being moved, "That the farther consideration of the said Bill be adjourned till Thursday next:" after short debate; ordered, That the farther consideration of the said Bill be adjourned till Friday next; and the Lords to be summoned.

Protest against refusing to commit the said Bill.] June 2. The order of the day being read, for resuming the adjourned consideration of the Bill, intituled, "An Act for giving a more speedy remedy to the subject upon the writ of Habeas Corpus:" it was moved, "To commit the Bill." Which being objected to: after long debate thereupon, the question was put, "Whether the said Bill shall be committed?" It was resolved in the negative.

"Dissentient,

"1. Because, until some effectual and speedy remedy be provided, by a new law, for the awarding and returning of writs of

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Habeas Corpus ad subjiciendum, in cases not within the statute of 31st Car. 2, the subject may, in many instances, be oppressed and deprived of his liberty without the possibility of redress; that remedy which our ancestors have wisely provided and enforced by statute, for the immediate relief of the guilty, being denied to the innocent.

"2. Because the subject is left under the most perplexing and grievous incertainties of various kinds, which appears from the contradictory opinions and reasons delivered by the Judges in answer to some of the questions stated to them; all which reasons, whereupon their opinions were founded, they did unanimously desire leave to decline giving in writing to the House, whereby it would have appeared that some of the judges conceived that the practice of awarding writs of Habeas Corpus in vacation time was founded upon ancient precedents and principles of law; without which support, it was held, that no practice of judges within time of memory was powerful enough to establish a law; while others, denying any such principle and law to have ever existed, and not admitting the force of such precedents, maintained such practice, since the statute was sufficient to give that usage the stamp of law. Others again contended strongly, that neither the one nor the other opinion could be supported; but that the practice was well justified by an equitable construction of the statute; which was opposed by others, who thought that such practice might well be introduced upon the plan of the statute by analogy. From all which variety of notions, not only the legality of this practice, but the unanimity of opinion which regularly ought to result from uniformity of principles, may well be questioned, since the same conclusion cannot fairly or safely be deduced from clashing and discordant premises.

"3. Because it is now become of indispensable necessity to define with precision, what shall be deemed a probable cause, under which the judges at all times shall be bound to issue the writs aforesaid, that they may not, in bad times, under words of so alarming a latitude, assume an arbitrary discretion, destructive of the personal liberty of the subject, in manifest violation of the ancient known common law of the land, confirmed by Magna Charta, and declared by the strongest, clearest, and most unanimous resolutions of both Houses of Parliament (hereby referred to) made in different ages, upon two solemn occasions, with the assistance of the ablest and most eminent lawyers and statesmen; and because the general doctrines and opinions laid down in the course of this debate, that neither a judge, nor the court, are bound to grant this great remedial writ to the subject, upon proof of actual confinement, verified by affidavit, are not supported by any single determination of any one court of justice, and are directly repugnant to the reason and genius of the law of this free country.

"Commons Journal, 3 Aprilis 1628.

"Resolved, upon question, that the writ of Habeas Corpus may not be denied, but ought to be granted to every man that is committed or detained in prison, or otherwise restrained, though it be by the command of the king, the privy council, or any other, he praying the same, without one negative."

"Lords Journal, 9 Aprilis 1628.

"Mr. Selden, who was manager with sir Dudley Digges, Mr. Lyttelton, and sir Edward Coke, speaking in the name of the House of Commons, says, Now, my lords, if any man be so imprisoned by any such command, or otherwise, in any prison wheresoever, through England, and desire, either by himself, or by any other in his behalf, this writ of Habeas Corpus for the purpose, in the court of King's-bench, the writ is to be granted to him, and ought not to be denied him, no otherwise than any ordinary original writ in the Chancery, or other common process of law, may be denied; which, amongst other things, the House of Commons hath also resolved, upon mature deliberation; and I was commanded to let your lordships know so much."

"Lords Journal, 27th Feb. 1704.

"The twelve Judges present.

"Resolved, that every Englishman, who is imprisoned by any authority whatsoever, has an undoubted right, by his agents or friends, to apply for and obtain a writ of Habeas Corpus, in order to procure his liberty by due course of law."

"Lords Journal, 13 Martii, 1704.

"Report of a Representation to the queen, in which are contained the following words; viz.

"It has ever been allowed by the known common law, it is the right of every subject under restraint, upon demand, to have his writ of Habeas Corpus;

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and thereupon to be brought before some proper court, where it may be examined whether he be detained for a lawful cause.

"TEMPLE, C. P. S."

Ordered that the said Bill be rejected.*

Lord *Hardwicke* then moved, That the judges do prepare a Bill to extend the power of granting writs of Habeas Corpus ad subjiciendum in vacation time, in cases not within the statute 31st Car. 2, cap. 2,

* Heads of Objections to the Bill for extending the Habeas Corpus Act: from the Notes of lord Hardwicke's Speeches.

1st, The principle on which it was originally proposed.

2nd, The utility of the provisions contained in it.

Principle changed its shape in the progress of it. First was, that the Hab. Corp. Act included all cases of restraint, but that the judges had unwarrantably narrowed it. This was soon deserted, the Bill sent up is enacting not declaratory.

The next ground was, that the Hab. Corp. Act only extended to cases of criminal commitment; but in cases at common law, the judges of B. R. could not legally grant the writs in vacation; and here was a defect in the law.

Another ground taken up was, that, by common law, a writ of Hab. Corp. ought to be granted of course, without laying before the court any probable cause, but that the judges had practised otherwise in violation of the subjects liberty.

Both these grounds appeared strange to me, who had been a diligent attender of West. Hall, and presided in the two great courts which have the principal jurisdiction in these writs for 23 years.

A writ of right it is, but then the party must shew the court, that there is some probable ground of justice in his case, and where is the hardship of this? If the law was otherwise, the Hab. Corp. Act (that bulwark of liberty) had restrained our liberty, instead of enlarging it. For, in the first place, it excepts all commitments for treason or felony, which were certainly within the common law before, as laid down by the friends of this Bill.

In the next place, it obliges the party, in all other criminal cases, to produce to the court a copy of the commitment, or an affidavit that it was not delivered on demand. That is in the nature of a probable cause, to shew whether the party is entitled to relief.

What does the present Bill do? It obliges the judges, under penalties, to award the writ, upon an affidavit being laid before them of actual restraint.

Let us consider what may be the operation in practice of this material clause in the Bill, and how it will affect the crown and subjects of England.

Whether all pressed men, either for the sea or land service, will not be entitled to such writs if they go of course.

Whether all persons imprisoned for debt will not likewise be entitled to them? and hence may arise endless vexation to creditors, and danger of escapes.

Whether all cases of private restraint will not be equally within this Bill, as of course too.

Whether some species of these persons may not be put in a worse condition than they are at present? If they neglect to apply for two terms under this Bill, they are precluded from applying in vacation time; but at common law they may certainly do it.

What will be the effect of the provision where the penalties are made to incur on leaving the writ not with the person confining, but at the place where the party is confined.

Will not the direction in the Bill, that the judge shall, in three days, determine the facts contained in the return, without giving him power to adjourn the case if it appears doubtful or difficult into court, be lodging too great an authority in the hands of a single judge? In many cases, it will be impossible to settle a proper return to the writ in three days. Whether, according to this Bill, the application for the writ may not be made *toties quoties*, before every judge, both in court and out of it, to the endless vexation of the party against whom the complaint is made?

2nd Resn. of the House of C. 1627.

That the writ of Hab. Corp. may not be denied, but ought to be granted to every man, &c.

The whole subject matter of this proceeding, was the exorbitant power exercised by the king or the privy council, of committing without assigning any cause.

All the resolutions relate to this point, and not to writs at large; in construction they must all be coupled together.

The proceeding upon the resolutions shews, that the sense of the House must not be taken from any of them singly, but from the final Act.

The Lords came to some resolutions on the great point of personal liberty, in which they did not agree entirely with the Commons; conferences were held upon them between the two Houses; the Petition of Right was framed out of both, and that is confined to the question of arbitrary commitments by the king and council. When the Star-chamber and other illegal courts were abolished in 1640, there is a special clause in that Bill, that every person so confined shall have his writ upon demand, and a proviso, that the act is only meant to extend to these courts; this implies, that in other cases, a Habeas Corpus was not a writ of course.

But, admitting that the resolution is to be understood in its latitude, is the vote of one House of Parliament to make the law?

In the Lords' Resolution of 1704, the parti-

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to all the judges of his majesty's courts at Westminster, and to provide for the issuing of process in vacation time to compel obedience to such writs* ; and that, in preparing such Bill, the judges do take into consideration, whether, in any and what cases, it may be proper to make provision, that the truth of the facts contained in the return to a writ of Habeas Corpus may be controverted by affidavits or traverse, and so far as it shall appear to be proper, that clauses be inserted for that purpose; and that the Judges do lay such Bill before this House in the beginning of the next session of parliament. Which was ordered.

The King's Message respecting a Vote of Credit.] June 6. Mr. Secretary Pitt presented the following Message from his majesty to the Commons:

"GEORGE *R.*

"His majesty, relying on the experienced zeal and affection of his faithful Commons, and considering, that, in this critical conjuncture, emergencies may arise which may be of the utmost importance, and be attended with the most pernicious consequences, if proper means should not immediately be applied to prevent or defeat them, is desirous, that this House will enable him to defray any extraordinary expences of the war, incurred or to be incurred, for the service of the year 1758; and to take all such measures as may be necessary to disappoint or defeat any enterprizes or designs of his enemies, and as the exigency of affairs may require.

"G. *R.*"

In consequence of this Message, the Commons voted the sum of 801,000*l.* for the purpose therein expressed.

The Salaries of the Judges augmented.] June 16. A motion was made, and the question being put, That an humble Address be presented to his majesty, to represent, that the Salaries of most of the Judges in his majesty's superior courts of justice in that kingdom, are inadequate to the dignity and importance of their offices; and therefore to beseech his majesty, that he will be graciously pleased to advance

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cular point it was applied to, was the House of Commons punishing the counsel and solicitor of the Aylesbury men, for moving the writs of Hab. Corp. They did not mean to lay down all the ingredients for entitling the party to the writ.

The words, 'by due course of law,' go to the whole of the Resolutions.

The Commons, at the conference on this subject, allow that the prisoner has a right of application, provided it be made to the proper place and in the proper manner; that takes in the probable cause as part of the proper manner.

The Commons meant, that application could only be made in cases of privilege to their House; the Lords contended, that in cases where the subject had a right to maintain in another place, the king's courts were open; the ingredients of the writ were on both sides out of the question.

Cannot agree to this Bill at the expence of condemning all the courts of justice for 180 years past, nor of taking away from the king's judges the power of judging according to law. It is admitted, they must have that power in the material part, discharging, bailing, or remanding. No jealousy can lie against the judges in cases between party and party; the Hab. Cor. Act, Car. 2di wisely drew the line, and by providing for criminal cases, where temptation might lie, left private ones to the old rules of law.

If the objections of inconvenience should be thought not to have much weight, can show the inutility and futility of this Bill. It concludes in no essential object, only requiring the judge to discharge, or bail, or remand. It is all the power the most corrupt judge can wish for, there is no final end, no obligation for relief of the subject. One of the judges said very justly, the judge who would refuse the writ in a proper case, would equally refuse to bail or discharge the party, in a case where he ought to do one or the other. The whole of this Bill is *magno opere nihil agere*, and as it is incapable of being amended, am clearly for rejecting it.

* The Hon. Horace Walpole to the Hon. Henry Seymour Conway. Arlington Street, June 4, 1758.

"The Habeas Corpus is finished, but only for this year. Lord Temple threatened to renew it the next; on which lord Hardwicke took the part of proposing to order the Judges to prepare a Bill for extending the power of granting the writ in vacation to all the judges. This prevented a division; though lord Temple, who protested alone t'other day, had a flaming protest ready, which was to have been signed by near thirty. They sat last night till past nine. Lord Mansfield spoke admirably for two hours and twenty-five minutes. Except lord Ravensworth and the duke of Newcastle, whose meaning the first never knows himself, and the latter's nobody else, all who spoke, spoke well: they were lord Temple, lord Talbot, lord Bruce, and lord Stanhope, for; lord Morton, lord Hardwicke, and lord Mansfield against the Bill. The duke of Grafton has resigned." Lord Orford's Works, vol. 5, p. 55.

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any sum, not exceeding 11,450*l.* to be applied in augmentation of the salaries of such judges, and in such proportions as his majesty in his great wisdom shall think fit, for the present year; and to assure his majesty, that this House will make good the same to his majesty:" The House divided, Yeas, 58. Noes, 3. So it was resolved in the affirmative.

*The King's Speech at the Close of the Session.**] June 20. His majesty being indisposed, the Lords Commissioners closed the session with the following Speech to both Houses:

"My Lords and Gentlemen,

"We have received the king's commands, upon this occasion, to assure you, that his majesty has the deepest sense of the loyalty and good affections demonstrated by his parliament, throughout the whole course of this session. The zeal which you have shewn for his majesty's real honour and interest in all parts, your earnestness to surmount every difficulty, and your ardour to carry on the war with the utmost vigour, in order to a safe and honourable peace, must convince all the world, that the ancient spirit of the British nation is still subsisting in its full force.

"His majesty has also commanded us to acquaint you, that he has taken all such measures, as have appeared to be most conducive to answer your public spirited views and wishes. Through your assistance, and by the blessing of God upon the conduct and bravery of the combined army, his majesty has been enabled not only to deliver his dominions in Germany from the oppressions and devastations of the French, but to push our advantages on this side the Rhine.

"His majesty has cemented the union between him and his good brother the king of Prussia, by new engagements, with which you have been already fully acquainted.

"Our fleets and armies are now actually employed in such expeditions, as appeared likely to annoy the enemy in the most sensible manner; to promote the welfare and prosperity of these kingdoms; and particularly to preserve our rights and possessions in America; and to make France feel our just weight and real strength in those parts, his majesty trusts in the Divine Providence, that they may be blessed with such success, as will most effectually tend to these great and desirable ends.

"Gentlemen of the House of Commons,

"We are particularly commanded by the king, to return you his thanks for those ample supplies, which you have so freely and unanimously given. His majesty grieves for the burdens of his people; but your readiness in supporting the war is the most probable means the sooner to deliver you from it. You may be assured, that nothing will be wanting, on his majesty's part, to secure the most frugal management.

"My Lords and Gentlemen,

"His majesty has directed us to repeat his recommendation to you, to promote harmony and good agreement amongst his faithful subjects; and to make the uprightness and purity of his intentions and measures rightly understood. Exert yourselves in maintaining the peace and good order of the country, by enforcing obedience to the laws and lawful authority; and by making the people sensible, how much they hurt their own true interest by the contrary practice.

"For their sakes, the king has commanded us to press this upon you; for their true interest and happiness are his majesty's great and constant object."

* "Never, surely had any sovereign more reason to be pleased with the conduct of his ministers, and the spirit of his people. The whole nation reposed the most unbounded confidence in the courage and discretion, as well as in the integrity of Mr. Pitt, who seemed eager upon prosecuting the war, with such vigour and activity as appeared almost unexampled in the annals of Great Britain. New levies were made, new ships put in commission, fresh expeditions undertaken, and fresh conquests projected. Such was the credit of the administration, that people subscribed to the government loans with surprising eagerness. An unusual spirit of enterprise and resolution seemed to inspire all the individuals that constituted the army and navy; and the passion for military fame diffused itself through all ranks in the civil department of life, even to the very dregs of the populace: such a remarkable change from indolence to activity, from indifference to zeal, from timorous caution to fearless execution, was effected by the influence and example of an intelligent and intrepid minister, who, chagrined at the inactivity and disgraces of the preceding campaign, had, on a very solemn occasion, lately declared his belief, that there was a determined resolution, both in the naval and military commanders, against any vigorous exertion of the national power in the service of the country." Smollett.

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The Parliament was then prorogued to the 3d of August; and was afterwards further prorogued to the 23d of November.

SIXTH SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

*The King's Speech on Opening the Session.**] November 23, 1758. The Session was opened by Commission with the following Speech delivered by the Lord Keeper Henley:

"My Lords, and Gentlemen,

"In pursuance of the authority given to us by his majesty's commission under the great seal, amongst other things, to declare the causes of his holding this parliament, his majesty has been graciously pleased to direct us to assure you, that he always receives the highest satisfaction in being able to lay before you any events that may promote the honour and interest of his kingdoms.

"That, in consequence of your advice, and enabled by that assistance which you unanimously gave him, his majesty has exerted his endeavours to carry on the war in the most vigorous manner in order to that desirable end, always to be wished, a safe and honourable peace. It has pleased the Divine Providence to bless his majesty's measures and arms with success in several parts; and to make our enemies feel, that the strength of Great Britain is not to be provoked with impunity.

"We have it also in command from his majesty to acquaint you, that the conquest of the strong fortress of Louisbourg, with the islands of Cape Breton and St. John, the taking of Frontenac, of the highest importance to our operations in North America, and the reduction of Senegal, cannot fail to bring great distress upon the French commerce and colonies; and in proportion to procure great advantages to our own. That nation has also been made sensible, that, whilst their forces are sent forth to invade and ravage the dominions of their neighbours, their own coasts are not inaccessible to his majesty's fleets and armies. This they have experienced in the demolition of their works at Cherburg, erected at a great expence, with a particular view to annoy this country; and in the loss of a great number of ships and vessels. But no treatment, however injurious to his majesty, could tempt him to make retaliation on the innocent subjects of that crown.

"In Germany, his majesty's good brother the king of Prussia, and prince Ferdinand of Brunswick, have found full employment for the armies of France and her confederates; from which our operations, both by sea and in America, have derived the most evident advantage. Their successes, owing, under God, to their able conduct and the bravery of his majesty's troops and those of his allies, have been signal and glorious.

"His majesty has further commanded us to observe to you, that the common cause of liberty and independency is still making noble and vigorous efforts against the unnatural union formed to oppress it that the commerce of his subjects, the source of our riches, has, by the vigilant protection received from his majesty's fleet, flourished in a manner not to be paralleled during such troubles. In this state of things, his majesty, in his wisdom, thinks it unnecessary to use many words to persuade you to bear up against all difficulties, effectually to stand by and defend his majesty; vigorously to support the king of Prussia, and the rest of his majesty's allies; and to exert yourselves to reduce our enemies to equitable terms of accommodation.

"Gentlemen of the House of Commons;

"The uncommon extent of this war, in different parts, occasions it to be uncommonly expensive. This his majesty has ordered us to declare to you, that he sincerely laments, and feels deeply for the burdens of his people. The several estimates are ordered to be laid before you; and his majesty desires only such supplies, as shall be requisite to push the war with advantage, and be adequate to the necessary services.

"My Lords and Gentlemen;

"His majesty has, in the last place, graciously commanded us to assure you, that he takes so much satisfaction in that good harmony which subsists amongst his faithful subjects, that it is more proper for

* "The Parliament was opened by commission. Universal approbation of all that has, and of all that will be done. The king of Prussia's victories worth all we have given, and those he will gain, worth all we shall give. Thus this country seems to think at present." Dodington's Diary.

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him now to thank you for it, than to repeat his exhortations to it. This union, necessary at all times, is more especially so in such critical conjunctures; and his majesty doubts not, but the good effects we have found from it, will be the strongest motives to you to pursue it."

The Lords' Address of Thanks.] A motion being made for an Address to his majesty, the following was agreed to without opposition:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to approach your throne, with hearts full of that duty and affection to your sacred person and government which become the most faithful subjects to the best of kings.

"That constant regard and attention which your majesty has shewn to the honour and interest of your kingdoms, have filled our minds with the most grateful sentiments: and we see with real satisfaction those active and vigilant efforts which your majesty in your great wisdom has made to carry on the war with vigour, in order to the desirable end which we all wish, a safe and honourable peace.

"Justice and good policy required that our enemies should feel how dangerous it is for them to provoke the spirit and strength of the British nation. We acknowledge, with becoming thankfulness, the goodness of the Divine Providence, in having crowned your majesty's measures and arms with success in several parts; and we joyfully congratulate your majesty on the conquest of the strong fortress of Louisburg, with the islands of Cape Breton and St. John, the taking of Frontenac, and the reduction of Senegal. The high importance of these successes is apparent, in the reputation thereby acquired to your majesty's arms, and in the distress they cannot fail to bring upon the French commerce and colonies, as well as in the happy effects procured to those of Great Britain.

"We have seen, with the warmest emotions of resentment, the exorbitant devastations committed by the armies of France upon the dominions of your majesty and those of your allies in Germany. They must now have experienced how much, in consequence of their unbounded ambition to invade their neighbours, their own coasts are exposed, in the demolition of their expensive works at Cherbourg, particularly intended for the annoyance of this country, and in the loss of so many ships and vessels, as well privateers as others, in their ports. At the same time, we cannot sufficiently admire your majesty's magnanimity and moderation, in not having hitherto retaliated on the innocent subjects of that crown the injurious treatment which you have received.

"We have a just sense of the real advantages derived to the operations of Great Britain in particular, as well as to the common cause in general, from the wise conduct of the king of Prussia and prince Ferdinand of Brunswick: their great abilities, and the bravery of your majesty's troops and those of your allies, have been signally conspicuous in the successes with which they have been attended, and must be acknowledged by all Europe.

"Nothing can possibly be of greater national importance than the navigation and commerce of your subjects; and we return your majesty our dutiful thanks, for that protection and security which they have received from your royal care in the disposition of your fleet, to which their present flourishing condition is so much owing. The stagnation of our enemies trade, and the taking and destroying so many of their capital ships of war, ought in this view to be reckoned amongst the most happy events.

"Permit us to declare our grateful sense of that paternal tenderness which your majesty has expressed for the burdens of your people. We receive from thence the strongest encouragement to adhere the more firmly to the cause of the Protestant religion and public liberty, against any unnatural union formed to oppress it. In this just cause we will, to our utmost, effectually stand by and defend your majesty, support the king of Prussia and the rest of your allies, and vigorously exert ourselves to reduce our enemies to equitable terms of accommodation.

"Our duty and fidelity to your majesty, and our zeal for the Protestant succession in your royal family, are uniform and unalterable; our prayers for the prolongation of your precious life, and auspicious reign over us, are sincere and fervent; and we beg leave to give your majesty the strongest assurances, that nothing shall be wanting, on our part, to improve union and good harmony amongst all your subjects, for promoting and se-

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curing these interesting and essential objects."

The King's Answer.] To which Address his majesty returned this Answer:

"My Lords;

"I return you my hearty thanks, for this very dutiful and affectionate Address. The satisfaction which you express in my measures, and the zeal you shew for my honour and support, the true interest of my kingdoms, and the assistance of my allies, as well as for pursuing the war with vigour, are highly acceptable to me: they cannot fail to produce the best effects in the present conjuncture."

The Commons' Address of Thanks.] The Commons being returned to their own House, the following Address, moved for by lord Middleton, was agreed to *nem. con.*

"Most Gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, return your majesty our most sincere and hearty thanks for the Speech delivered by your majesty's command, to both Houses of Parliament.

"We beg leave to congratulate your majesty, with hearts full of the most unfeigned joy, upon the many signal successes, with which it has pleased Divine Providence to bless your majesty's measures and arms in several parts of the world; particularly in the important conquest of the strong fortress of Louisbourg, with the islands of Cape Breton and St. John; the taking of Frontenac, so essential to our operations in North America; the reduction of the valuable settlement of Senegal; the total demolition of the harbour and works of Cherbourg, erected at so great expence by the enemy, with a particular view to annoy this country; and the destruction of the shipping and privateers in the ports of France.

"Your majesty's faithful Commons feel, with the highest satisfaction, how greatly these events redound to the honour and interests of your majesty's kingdoms, to the upholding the reputation of the British arms, and to the maintaining and extending the glories of your majesty's reign.

"We have the most lively sense of the happy consequences (under God) of your majesty's wisdom in the powerful exertion of the naval force of these kingdoms, to the annoyance and distress of the fleets, trade, and navigation of France, whilst the commerce of Great Britain flourishes in full protection and security; and, at the same time, of your majesty's justice and magnanimity, in steadily supporting your allies, and in carrying on with vigour, in all parts, this arduous and necessary war.

"It is with joy and admiration we see the glorious efforts made in Germany, by your majesty's great ally the king of Prussia, and those made by prince Ferdinand of Brunswick, seconded by the valour of your majesty's troops, and those of your allies; and that full employment has thereby been given to all the armies of France, and of her confederates: from which, our operations, both by sea and in America, have received the most evident and important advantages.

"Permit us to assure your majesty, that your faithful Commons, justly animated in defence of the rights of your majesty's crown, and of the Protestant religion, and the common cause of liberty and independency, against the dangerous union, which hath been formed to oppress them, will bear up against all difficulties, and exert themselves to the utmost, by granting to your majesty such supplies as shall be necessary, effectually to stand by, and defend your majesty, and vigorously to support the king of Prussia, and the rest of your majesty's allies; firmly relying on the wisdom and goodness of your majesty, that the same will be applied, in the properest manner, to push the war with advantage, and to reduce the enemy to equitable terms of a safe, honourable, and lasting peace.

"We beg leave, also, to express our most grateful sense of the paternal satisfaction your majesty takes, in that good harmony, which subsists amongst your faithful subjects; and of your majesty's gracious acceptance of the universal zeal and affection of your people; which salutary union hath enabled us so effectually to exert our strength abroad, and hath preserved, at home, tranquillity, safety, and public credit; and we trust, that the continuance of the same truly national spirit will, by the blessing of God, be attended with the like happy effects for the future."

The King's Answer.] His majesty returned this Answer:

"Gentlemen,

"I return you my thanks for your duti-

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ful and affectionate Address; and for this fresh mark of your unanimous zeal in defence of me and my crown, and of my good brother the king of Prussia, and the rest of my allies.—You may depend on my constant endeavours for the preservation of my kingdoms, their trade, and colonies; and for the liberties of Europe."

The Thanks of the Commons given to Admiral Boscawen.] December 12. The Speaker, in pursuance of a Resolution of the House, addressed himself to admiral Boscawen, and gave him the Thanks of the House, as he stood in his place, in the following terms:

"Admiral Boscawen; the House have unanimously resolved, that their Thanks should be given to you for the services you have done to your king and country in North America; and it is my duty to convey their Thanks to you.

"I wish I could do it in a manner suitable to the occasion, and as they ought to be given to you, now standing in your place, as a member of this House.

"But were I able to enumerate and set forth, in the best manner, the great and extensive advantages accruing to this nation from the conquest of Louisbourg, with the islands of Cape Breton and St. John, I could only exhibit a repetition of what has already been, and is, the genuine and uniform sense and language of every part of the kingdom.

"Their joy too has been equal to their sentiments upon this interesting event; and in their sentiments and joy they have carried their gratitude also to you, Sir, as a principal instrument in these most important acquisitions.

"You are now, therefore, receiving the acknowledgments of the people, only in a more solemn way—by the voice, the general voice, of their representatives in parliament—the most honourable fame that any man can arrive at, in this, or any other country. It is, on these occasions, a national honour, from a free people; ever cautiously to be conferred, in order to be the more esteemed—to be the greater reward; and which ought to be reserved for the most signal services to the state, and the most approved merit in them; such as this House has usually, and very lately, made their objects of public thanks.

"The use, I am persuaded, you will make of this just testimony, and high reward of your services and merit, will be the preserving in your mind a lasting impression of what the Commons of Great Britain are now tendering to you, and in a constant continuance of the zeal and ardour for the glory of your king and country, which you have made to deserve it.

"In obedience to the commands of the House I do, with great pleasure to myself, give you the Thanks of the House, for the services you have done to your king and country in North America."

Upon which Admiral *Boscawen* said,

"Mr. Speaker; I am happy in having been able to do my duty: but have not words to express my sense of the distinguishing reward, that has been conferred upon me by this House: nor can I enough thank you, Sir, for the polite and elegant manner in which you have been pleased to convey to me the resolution of the House."

1759.

Supplies granted.] The parliament proceeded to the great work of the supply. The two committees in the House of Commons were immediately established, and continued by adjournments to the month of May, by the 23rd day of which all their resolutions were taken. They voted 60,000 men, including 14,845 marines, for the service of the ensuing year; and for the operations by land, a body of troops amounting to 52,543 effective men, besides the auxiliaries of Hanover, Hesse, Brunswick, Saxe-Gotha, and Buckebourg, to the number of 50,000, and five battalions on the Irish establishment, in actual service in America and Africa. For the maintenance of the 60,000 men employed in the sea service, they granted 3,120,000*l.*; for the land forces, 1,256,130*l.* 15*s.* 2*d.*; for the charge of the additional five battalions, 40,879*l.* 13*s.* 9*d.*; for the pay of the general and staff-officers, and hospitals of the land-forces, 52,484*l.* 1*s.* 8*d.*; for maintaining the garrisons in the plantations, Gibraltar, Nova Scotia, Newfoundland, Providence, Cape Breton, and Senegal, the sum of 742,531*l.* 5*s.* 7*d.*; for the charge of ordnance for land-service, 220,789*l.* 11*s.* 9*d.*; for extraordinary service performed by the same office, and not provided for by parliament in the course of the preceding year, 323,987*l.* 13*s.* 3*d.*; for the ordinary of the navy, including half-pay to sea-officers, 238,491*l.* 9*s.* 8*d.*; towards the support of Greenwich-hospital, and for the out-pensioners of Chelsea-college, the sum of 36,000*l.* They allotted

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for one year's expence, incurred by the foreign troops in the pay of Great Britain, 1,238,177*l.* 19*s.* 10*d.* over and above 60,000*l.* for enabling his majesty to fulfil his engagements with the landgrave of Hesse-Cassel, pursuant to the separate article of a new treaty concluded between them in the month of January of this current year, stipulating, that this sum should be paid to his serene highness, in order to facilitate the means by which he might again fix his residence in his own dominions, and by his presence give fresh courage to his faithful subjects. Eighty thousand pounds were granted for enabling his majesty to discharge the like sum, raised in pursuance of an act passed in the preceding session, and charged upon the first aids or supplies to be granted in this session of parliament. The sum of 200,000*l.* was voted towards the building and repairing ships of war for the ensuing year: 15,000*l.* were allowed for improving London-bridge; and 40,000*l.* on account for the Foundling-hospital. For the charge of transports to be employed in the course of the year, they assigned 667,771*l.* 19*s.* 7*d.*: for maintaining the colonies of Nova Scotia and Georgia, they bestowed 25,238*l.* 13*s.* 5*d.* To replace sums taken from the sinking fund, 33,252*l.* 18*s.* 10½*d.*; for maintaining the British forts and settlements on the coast of Africa, 10,000*l.*; and for paying off the mortgage on an estate devised for the endowment of a professorship in the university of Cambridge, the sum of 1,280*l.* For the expence of the militia they voted 90,000*l.*: for extraordinary expences relating to the land-forces, incurred in the course of last year, and unprovided for by parliament, the sum of 456,785*l.* 10*s.* 5¾*d.* For the purchase of certain lands and hereditaments, in order to secure the king's docks at Portsmouth, Chatham, and Plymouth, they granted 96,966*l.* 2*s.* 10*d.* They voted 200,000*l.* for enabling his majesty to give proper compensations to the respective provinces in North America, for the expences they had incurred in levying and maintaining troops for the service of the public. They granted 20,000*l.* to the East India company, towards enabling them to defray the expence of a military force in their settlements; and the same sum was granted for carrying on the fortifications to secure the harbour of Milford. To make good several sums issued by his majesty, for indemnifying the inn-holders and victuallers of Hampshire for the expences they had incurred in quartering the Hessian auxiliaries in England; for an addition to the salaries of judges, and other less considerable purposes, they allowed the sum of 26,178*l.* 16*s.* 6*d.* Finally, they voted one million, upon account, for enabling the king to defray any extraordinary expence of the war, incurred or to be incurred, for the service of the current year; and to take all such measures as might be necessary to disappoint or defeat any enterprises or designs of his enemies, as the exigency of affairs should require. The sum of all the grants voted by the committee of supply, amounted to 12,761,310*l.* 19*s.* 5*d.**

April 26, 1759. The Chancellor of the Exchequer presented to the House two Messages from his majesty: one in fa-

* "December 15, 1758. The estimates for the expences of the year 1759 are made up. I have seen them; and what do you think they amount to? No less than twelve millions three hundred thousand pounds: a most incredible sum, and yet already all subscribed, and even more offered! The unanimity of the House of Commons, in voting such a sum, and such forces, both by sea and land, is not less astonishing. This is Mr. Pitt's doing, and it is marvellous in our eyes."

"February 2, 1759. There never was so quiet, or so silent a session of parliament as the present: Mr. Pitt declares only what he would have them do, and they do it *nemine contradicente*, Mr. Viner only excepted.

"February 27. I might have a justifiable excuse for writing to you seldomer than usual, for to be sure there never was a period of time, in the middle of a winter, and the parliament sitting, that supplied so little matter for a letter. Near twelve millions have been granted this year, not only *nemine contradicente*, but *nemine quicquid dicente*. The proper officers bring in the estimates; it is taken for granted that they are necessary, and frugal; the members go to dinner, and leave Mr. West and Mr. Martin to do the rest." Lord Chesterfield to his Son.

The Hon. Horace Walpole to the Hon. Henry Seymour Conway.

"January 19, 1759. Though the parliament is met, no politics are come to town: one may describe the House of Commons like the price of stocks: Debates nothing done: Votes under par: Patriots, no price: Oratory, books shut.

"January 28. We had a scrap of a debate on Friday on the Prussian and Hessian Treaties. Old Viner opposed the first, in pity to that "poor woman," as he called her, the empress queen. Lord Strange objected to the guaranty of 60,000*l.* to the Landgrave, unless

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vour of his subjects in North America, and the other in behalf of the East India company: the former recommending to their consideration the zeal and vigour with which his faithful subjects of North America had exerted themselves, in defence of his just rights and possessions; desiring he might be enabled to give them a proper compensation for the expences incurred by the respective provinces in levying, clothing, and paying the troops raised in that country, according as the active vigour and strenuous efforts of the several colonies should appear to merit. In the latter, he desired the House would impower him to assist the East India company in defraying the expence of a military force in the East Indies, to be maintained by them in lieu of a battalion of regular troops withdrawn from thence, and returned to Ireland.—Both these Messages were referred to the committee of supply, and produced the proper resolutions upon each subject.

The King's Message for a Vote of Credit.] May 22. Mr. Secretary Pitt communicated to the Commons the following Message from the king:

"GEORGE *R.*

"His majesty, relying on the experienced zeal and affection of his faithful Commons, and considering that, in this critical conjuncture, emergencies may arise which may be of the utmost importance, and be attended with the most pernicious consequences, if proper means should not immediately be applied to prevent or defeat them, is desirous, that this House will enable him to defray any extraordinary expenses of the war incurred, or to be incurred, for the service of the year 1759, and to take all such measures, as may be necessary to disappoint or defeat any enterprizes or designs of his enemies, and as the exigencies of affairs may require."

This Message being read, a motion was made, and agreed to *nem. con.* that it should be referred to the Committee of Supply, who forthwith formed upon it the resolution, whereby one million was granted, to be raised by loans or exchequer bills, chargeable on the first aids that should be given in the next session.

The King's Message concerning an Invasion from France.] May 30. The following Message from his majesty was communicated to the Commons by Mr. Secretary Pitt:

"GEORGE *R.*

"The king has received advices that the French court is making preparations with a design to invade this kingdom; and though his majesty is persuaded, that, by the united zeal and affection of his people, any such attempt must, under the blessing of God, end in the destruction of those who shall be engaged therein; yet his majesty apprehends that he should not act consistently with that paternal care and concern, which he has always shewn for the safety and preservation of his people, if he omitted any means in his power, which may be necessary for their defence. Therefore, in pursuance of the late act of parliament, his majesty acquaints the House of Commons with his having received repeated intelligence of the actual preparations making in the French ports to invade this kingdom, and of the imminent danger of such an invasion being attempted; to the end that his majesty may (if he shall think proper) cause the militia, or such part thereof as shall be necessary, to be drawn out, and embodied, and to march as occasion shall require."

Resolved, *nem. con.* 1. "That an humble Address be presented to his majesty, to return his majesty our dutiful thanks, for graciously communicating to this House, that he has received repeated intelligence of the actual preparations making in the French ports to invade this kingdom, and of the imminent danger of such invasion being attempted; and for his majesty's paternal and timely care of the safety and preservation of his people; to assure his majesty that this House will, with their lives and fortunes, support and stand by his majesty against all attempts whatever; and that his faithful Commons, with hearts warm with affection and zeal for his majesty's sacred person and government, and animated by indignation at the daring designs of an enemy, whose fleet has hitherto shunned, in port, the terror of his navy, will cheerfully exert the utmost efforts to repel all insults, and effectually enable his

words were inserted to express his receiving that sum in full of all demands. If Hume Campbell had cavilled at this favourite treaty, Mr. Pitt could scarce have treated him with more haughtiness. This long day was over by half an hour after four." Lord Orford's Works, vol. 5, p. 61.

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majesty, not only to disappoint the attempts of France, but, by the blessing of God, to turn them to their own confusion. —2. That an humble Address be presented to his majesty, that he will be graciously pleased to give directions to his lieutenants of the several counties, ridings, and places, within that part of Great Britain called England, to use their utmost diligence and attention to carry into execution the several acts of parliament made for the better ordering the militia forces of that part of Great Britain called England."

The King's Answer.] To this Address his majesty gave this Answer:

"I return you my thanks for your dutiful and affectionate Address, and for this fresh, and very particular, mark of your unanimous zeal in defence of me and my crown. You may rely on my constant endeavours for the preservation and safety of my kingdoms."

Resolutions of the Commons respecting the State of the Poor and of the Poor Laws.] May 30. Sir Richard Lloyd reported from the Committee appointed to take into consideration the State of the Poor in that part of Great Britain called England, and of the laws relating thereto; and to report their opinion thereupon, from time to time, to the House; That the committee had considered the matters to them referred, and had come to the following Resolutions:

Resolved, 1. That it is the opinion of this committee, That the present methods of relieving the poor, in the respective parishes where no workhouses or other proper places have been provided for their reception and employment, are in general very burthensome to the inhabitants of such parishes, and tend to render the poor miserable in themselves, and useless to the community.—2. That the present method of giving money out of the parochial rates to persons capable of labour, in order to prevent such persons claiming an entire subsistence for themselves and their families from the parishes, is contrary to the spirit and intention of the laws for relief of the poor, is a dangerous power in the hands of parochial officers, a misapplication of the public money, and a great encouragement to idleness and intemperance. —3. That the employment of the poor, under proper direction and management, in such works and manufactures as are suited to their respective strength and capacities, will be of great utility and advantage to the public.—4. That the placing of the poor in workhouses, to be provided within such districts as shall be deemed most convenient in the several counties and ridings in England and Wales, under the direction and management of governors or trustees, to be particularly appointed or chosen for that purpose, will be the most effectual method of assisting and relieving such persons as by age, infirmities, or diseases, are rendered incapable of supporting themselves by their labour, of employing the able and industrious, reforming the idle and profligate, and of educating poor children in religion and industry.—5. That the poor in such workhouses will be better regulated and maintained, and managed with more advantage to the public, by guardians, governors, or trustees, to be specially appointed or chosen for that purpose, and incorporated with such powers, under such restrictions, as the legislature shall deem proper, than by the annual parochial officers.—6. That the erecting of the workhouses upon waste lands and appropriating a certain quantity of such lands to be cultivated, in order to produce provision for the poor in the said houses, would not only be a means of instructing and employing many of the said poor in agriculture, but lessen the public expence. —7. That the controversies and law suits, concerning the settlements of poor persons, occasion a very great, and in general an useless, expence to the public, to the amount of many thousand pounds per annum; and that often more money is expended in ascertaining such settlements by each of the contending parishes, than would maintain the paupers.—8. That, if workhouses should be established for the general reception of the poor within districts in the respective counties and ridings, the laws relating to the settlement of the poor, and the passing of vagrants, may be repealed.—9. That, whilst the present poor laws subsist, the compelling parish officers to grant certificates to the poor, will be a means of preventing the hardships they now suffer in being debarred gaining their livelihood, where they can do it most usefully to themselves and the public.

After these Resolutions were read at the table, it was ordered, that they be taken into consideration on the Friday

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following, when the order was put off to Monday, before which day the parliament was prorogued.

*The King's Speech at the Close of the Session.**] June 2. His majesty still continuing somewhat indisposed, the Lord Keeper Henley, and others, by commission, closed the Session with the following Speech:

"My Lords and Gentlemen;

"The king has commanded us to put

* "The people of England, provoked on one hand by the intrigues, the hostilities, and menaces of France, and animated on the other by the pride of triumph and success, which never fails to reconcile them to difficulties, howsoever great, and expence, however enormous, at this period breathed nothing but war, and discoursed about nothing but new plans of conquest. We have seen how liberally the parliament bestowed the nation's money; and the acquiescence of the subjects in general under the additional burthens which had been imposed, appear in the remarkable eagerness with which they embarked in the subscription planned by the legislature; in the vigorous assistance they contributed towards manning the navy, recruiting the army, and levying additional forces; and the warlike spirit which began to diffuse itself through all ranks of the people. This was a spirit which the ministry carefully cherished and cultivated, for the support of the war, which, it must be owned, was prosecuted with an ardour and efficacy peculiar to the present administration. True it is, the German war had been for some time adopted as an object of importance by the British counsels, and a resolution was taken to maintain it without flinching: at the same time, it must be allowed, that this consideration had not hitherto weakened the attention of the ministry to the operations in America, where alone the war may be said to have been carried on and prosecuted on British principles, so as to distress the enemy in their most tender part, and at the same time acquire the most substantial advantages to the subjects of Britain. For these two purposes, every preparation was made that sagacity could suggest, or vigour execute. The navy was repaired and augmented, and, in order to man the different squadrons, the expedient of pressing, that disgrace to a British administration, was practised both by land and water with extraordinary rigour and vivacity: a proclamation was issued, offering a considerable bounty for every seaman and every landman that should, by a certain day, enter voluntarily into the service. As an additional encouragement to this class of people, the king promised his pardon to all seamen who had deserted from the respective ships to which they belonged, provided they should return to their duty by the third day of July; but at the same time he declared, that those who should neglect this opportunity, at a time when their country so much required their service, would, upon being apprehended, incur the penalty of a court-martial, and, if convicted, be deemed unfit objects of the royal mercy. All justices of the peace, mayors, and magistrates of corporations throughout Great Britain were commanded to make particular search for straggling seamen fit for the service, and to send all that should be found to the nearest sea-port, that they might be sent on board by the sea-officer there commanding. Other methods, more gentle and effectual, were taken to levy and recruit the land-forces. New regiments were raised, on his majesty's promise, that every man should be entitled to his discharge at the end of three years, and the premiums for inlisting were increased. Over and above these indulgences, considerable bounties were offered and given by cities, towns, corporations, and even by individuals, so universally were the people possessed with a spirit of chivalry and adventure. The example was set by the metropolis, where the common-council resolved, that voluntary subscriptions should be received in the chamber of London, to be appropriated as bounty-money to such persons as should engage in his majesty's service. The city subscribed a considerable sum for that purpose; and a committee of aldermen and commoners was appointed to attend at Guildhall, to receive and apply the subscriptions. As a further encouragement to volunteers, they moreover resolved, that every person so entering should be entitled to the freedom of the city, at the expiration of three years, or sooner, if the war should be brought to a conclusion. These resolutions being communicated to the king, he was pleased to signify his approbation, and return his thanks to the city, in a letter from the secretary of state to the lord mayor. Large sums were immediately subscribed by different companies, and some private persons; and, in imitation of the capital, bounties were offered by many different communities in every quarter of the United Kingdom. At the same time, such care and diligence were used in disciplining the militia, that, before the close of the year, the greater part of those truly constitutional battalions rivalled the regular troops in the perfection of their exercise, and seemed to be, in all respects, as fit for actual service." Smollett.

"The most ample preparations were made for another vigorous campaign. The successes of the last campaign had inspired every individual, both in the army and navy, with a passion for glory that was nothing short of enthusiasm. In America, Quebec and Niagara were taken; and in the West Indies, Guadaloupe, and other islands. In Europe, another squadron fitted out at Toulon was defeated in the Mediterranean, by admiral Boscawen. Havre was bombarded by sir George Rodney,

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an end to this session of parliament; and, at the same time, to assure you, that as your conduct, during the course of it, has highly deserved his royal approbation, so his majesty now returns you his hearty thanks for it.

"At the opening of the session, his majesty exhorted you to bear up against all difficulties; effectually to stand by, and defend, his majesty; and vigorously to support the king of Prussia, and the rest of his allies. The king has commanded us to acquaint you, that his hopes of surmounting those difficulties was founded on the wisdom, zeal, and affection of so good a parliament; and that you have fully answered his expectations. You have considered the war in all its parts; and, notwithstanding the long continuance of it, through the obstinacy of our enemies, have made such provision for the many different operations, as ought to convince the powers engaged against us, that it will be for their interest, as well as for the ease and relief of all Europe, to come to equitable and honourable terms of accommodation.

"By your assistance the combined army in Germany has been completed; powerful squadrons, as well as great numbers of land forces, are employed in America, in order to maintain the just rights and possessions of his majesty and his people; and to annoy the enemy in the most sensible manner in those parts; and, as France is now making considerable preparations in her ports, his majesty has taken care to put his fleet at home in the best condition, both of strength and situation, to guard against, and repel any attempts, that may be meditated against his kingdoms.

"The king's measures have all been directed to assert the honour of his crown; to preserve the essential interests of his faithful subjects; and to support the cause of the Protestant religion, and public liberty. His majesty therefore trusts that the uprightness of his intentions will draw down the blessing of Heaven upon his endeavours.

"We have it, also, in command from his majesty, to let you know, that he hopes the provisions you have made to prevent and correct the excesses of the

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and Brest was blocked up by sir Edward Hawke. Duke Ferdinand defeated the French at Minden; and the king of Prussia, though surrounded by his numerous enemies, maintained himself with astonishing skill and valour. After the French had been defeated at Minden, they saw it was in vain to press forward their whole strength in Germany, and therefore they resolved upon making their next principal effort by sea. For this purpose they equipped all the naval force they had at Brest, and other ports in the Atlantic, and with an army which was kept in readiness to embark, they intended to make a descent upon Ireland, with a view of diverting the attention of the British cabinet from Germany and the West Indies. Sir Edward Hawke lay off Brest to intercept their sailing, and his squadron was reinforced from time to time. At length the French came out, and sir Edward Hawke gained a complete victory over them, on the 20th of November 1759.—This victory annihilated the naval power of France.

"It was in this year of unanimity and victory, that the seeds were sown of those divisions which appeared soon after the accession of George the Third. The patronage of places, that never-failing source of discord, was claimed by lord Bute. Upon lord Besborough going to the post office, in the month of May 1759, in the room of lord Leicester, deceased, there was a vacancy at the treasury board, and the duke of Newcastle proposed to fill it with Mr. James Oswald, from the board of trade, who was recommended by lord Halifax: but lord Bute interfered.—He told the duke of Newcastle, "He came to him in the name of all those on that side of the administration, (meaning the Leicester-house party) who thought they had as good a right to recommend as any other party whatever; and it was their wish that Mr. (afterwards sir) G. Elliot, of the admiralty, might be appointed." The duke of Newcastle finding himself obstructed in his own nomination, and resolving not to comply with that of lord Bute, the dispute was settled by a third person, with the recommendation of lord North; who, the duke afterwards found, was one of the confidential friends of his secret opponents. This was the first cause of difference.

"The second related to Mr. Legge, and happened a few months afterwards, in the same year. There being a vacancy in the representation of the county of Southampton, by the marquis of Winchester becoming duke of Bolton, it was the desire of the prince of Wales, signified by lord Bute to Mr. Legge, that though Mr. Legge had been invited by a great majority of the gentlemen of the county to represent them, yet that he must not accept of those invitations, but yield all pretensions in this matter to sir Simeon Stuart, who had his (lord B.'s) recommendation.—Mr. Legge lamented that he had not known the prince's inclinations sooner; that his engagements were made, and he could not break them. Mr. Legge was elected. But when the prince became king, although Mr. Legge had been made chancellor of the exchequer, by the voice of the nation, and his conduct in office distinguished by the strictest integrity, yet he was turned out." Life of Lord Chatham.

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privateers, will be effectual to that desirable end. The king has had it much at heart: for though his majesty is sensible of the utility of that service, when under proper regulations, he is determined to do his utmost, to prevent any injuries, or hardships, being done to the subjects of neutral powers, as far as may be practicable, and consistent with his majesty's just right to hinder the trade of his enemies from being collusively and fraudulently covered.

"Gentlemen of the House of Commons;

"We are commanded to assure you, that, when his majesty considers the large supplies which you have so unanimously given, he feels himself under the strongest obligations, not only to thank you for them, but also to applaud the firmness and vigour, with which you have acted; as well as your prudence in judging, that, notwithstanding the present burdens, the making ample provisions for carrying on the war is the most probable means to bring it to an honourable and happy conclusion. No attention will be wanting on his majesty's part for the faithful application of what you have granted.

"My Lords and Gentlemen;

"His majesty has been graciously pleased to order us to add, that he has nothing more to desire of you, but that you would carry down the same good dispositions, and propagate them in your several countries, which you have shewn in your proceedings during your sitting here."

The Parliament was then prorogued to the 26th of July; and was afterwards further prorogued to the 13th of November.

SEVENTH SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 13, 1759. This day the Session was opened by Commission; and the Commons attending in the House of Peers, the Lord Keeper Henley made the following Speech to both Houses:

"My Lords and Gentlemen;

"In pursuance of the authority given to us, by his majesty's commission under the great seal, amongst other things, to declare the cause of his holding this parliament, his majesty has been graciously pleased to direct us to assure you, that he esteems himself particularly happy, in being able to call you together, in a situation of affairs so glorious and advantageous to his crown and kingdoms.

"His majesty sees, and devoutly adores the hand of Providence, in the many signal successes, both by sea and land, with which his arms have been blessed, in the course of the last summer; and, at the same time, his majesty reflects, with much satisfaction, on the confidence which you placed in him, by making such ample provisions, and entrusting him with such extensive powers for carrying on a war, which the defence of our valuable rights and possessions, and the preservation of the navigation and commerce of his majesty's people, had made both just and necessary.

"We have it also in command from his majesty to acquaint you, that the happy progress of our successes, from the taking of Goree, on the coast of Africa, to the conquest of so many important places in America, with the defeat of the French army in Canada, and the reduction of their capital city of Quebec, effected with so much honour to the courage and conduct of his majesty's officers both at sea and land; and with so great lustre to his intrepid forces; together with the important success obtained by his majesty's fleet off Cape Lagos; and the effectual blocking up, for so many months, the principal part of the navy of France, in their own ports; are events, which must have filled the hearts of all his majesty's faithful subjects, as well as his own, with the sincerest joy; and, his majesty trusts, will convince you, that there has been no want of vigilance, or vigour, on his part, in exerting those means, which you, with so much prudence, and public-spirited zeal, put into his majesty's hands.

"That our advantages have extended farther; and the Divine blessing has favoured us in the East-Indies, where the dangerous designs of his majesty's enemies have miscarried; and that valuable branch of our trade has received great benefit and protection.

"That the memorable victory gained over the French, near Minden, has long made a deep impression on the minds of his majesty's people. And that, if the crisis in which that battle was fought, the superior numbers of the enemy, and the great and able conduct of his majesty's general, prince Ferdinand of Brunswick,

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are considered; that action must be the subject of lasting admiration and thankfulness. That, if any thing could fill the breasts of his majesty's good subjects with still farther degrees of exultation, it is the distinguished and unbroken valour of his majesty's troops; owned and applauded by those whom they overcame. The glory they have gained is not merely their own; but, in a national view, is one of the most important circumstances of our success, as it must be a striking admonition to our enemies, with whom they have to contend.

"That his majesty's good brother and ally the king of Prussia, attacked and surrounded by so many considerable powers, has, by his magnanimity and abilities, and the bravery of his troops, been able, in a surprising manner, to prevent the mischiefs concerted with such united force against him.

"His majesty has farther commanded us to observe to you, that as his majesty entered into this war, not from views of ambition, so he does not wish to continue in it, from motives of resentment. The desire of his majesty's heart is, to see a stop put to the effusion of Christian blood. Whenever such terms of peace can be established, as shall be just and honourable for his majesty, and his allies; and, by procuring such advantages, as, from the successes of his majesty's arms, may, in reason and equity, be expected, shall bring along with them full security for the future; his majesty will rejoice to see the repose of Europe restored, on such solid and durable foundations; and his faithful subjects, to whose liberal support and unshaken firmness his majesty owes so much, happy in the enjoyment of the blessings of peace and tranquillity. But in order to this great and desirable end, his majesty is confident you will agree with him, that it is necessary to make ample provision for carrying on the war, in all parts, with the utmost vigour.

"Gentlemen of the House of Commons,

"We are commanded by his majesty to assure you, that the great supplies, which were given the last session, have been faithfully employed for the purposes for which they were granted; but the uncommon extent of this war, and the various services necessary to be provided for, in order to secure success to his majesty's measures, have unavoidably occasioned extraordinary expences; an account of which will be laid before you.

"His majesty has also ordered the proper estimates for the service of the ensuing year to be prepared and laid before you; and his majesty desires you to grant him such supplies, as shall be necessary to sustain and press, with effect, all our extensive operations against the enemy; and, at the same time, by the blessing of God, to repeal and frustrate their daring designs against his majesty's kingdoms."

"My Lords and Gentlemen,

"His majesty has, in the last place, been graciously pleased to command us to repeat to you, the assurances of the high satisfaction his majesty takes in that union and good harmony, which is so conspicuous amongst his faithful subjects; happy in seeing it continued and confirmed; and to observe to you, that experience has shewn how much we all owe to it; and that nothing else can effectually secure the true happiness of his people."

His royal highness the Prince of Wales took his seat in the House of Peers this day.

The Lords' Address of Thanks.] The earl of Buckinghamshire moved the following Address of Thanks to his majesty, which was agreed to:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to approach your majesty, with the warmest sentiments of duty, and with hearts full of the most sincere joy, to congratulate your majesty, upon the great and signal successes with which it has pleased Almighty God to prosper your majesty's unwearied endeavours for the safety, welfare, and honour, of your people.

"We acknowledge with all thankfulness and humility, the goodness of the Divine Providence, in the many glorious events which will for ever distinguish this memorable year.

"We entirely rely upon your majesty's constant regard and attention to the true interests of your subjects, from the full experience which we have had of the wise and effectual use which your majesty has made of all the extensive powers with which the confidence of parliament has from time to time strengthened your majesty's hands. But we must, in a particular manner, gratefully acknowledge the extraordinary vigilance, vigour, and wisdom of your majesty's measures, in

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the steady and successful direction of so many various operations in different parts of the world.

"The happy progress of your majesty's arms, from the taking of Goree on the coast of Africa, and some of the French sugar islands in the West Indies, to the acquisition of many important places in America, and the defeat of the enemy's army in Canada, with the reduction of the capital city of Quebec, against the greatest disadvantage of situation and numbers, has exceeded the most sanguine hopes of your majesty's faithful subjects: nor has the good effect of your majesty's prudent measures been less conspicuous in the disappointment of the dangerous designs of your enemies in the East Indies, in the effectual blocking up the principal part of the French fleet in their own ports, and the important advantage gained off Cape Lagos; while your majesty's care has preserved your own kingdoms from any hostile attempt, and has protected the navigation and commerce of your own subjects in almost as full a security as during the time of profound peace.

"The memorable victory gained over the French near Minden cannot but make a deep and lasting impression upon every British mind.

"Whether we consider the great and able conduct of your majesty's general, prince Ferdinand of Brunswick, the valour of your majesty's troops, the inequality of force, or the imminent peril of that important crisis; the happy deliverance wrought by that action, and the glorious consequences of it, must ever be the subject of our praise and thankfulness.

"It is matter of just exultation to us, that the British officers and private men, both by sea and land, have given so many shining instances of personal bravery and military conduct: their example will animate others; their reputation is national strength, and will convince the enemy what they have to apprehend from a brave and gallant people, fired with zeal in defence of their king and country.

"We beg leave to express the high sense we have of the magnanimity and transcendent abilities of the king of Prussia; which have, in a surprizing manner, prevented the mischievous effects of the united force of so many considerable powers, by which he has been attacked and surrounded on all sides, against whom he has borne up and supported himself by the fortitude and inexhaustible resources of his own mind, and the courage and discipline of his troops.

"Permit us to declare, how highly we applaud your majesty's moderation and true greatness of mind, in restraining every impulse of resentment, and desiring to prevent the further effusion of Christian blood, by putting an end to the war (into which your majesty entered, not from views of ambition, but solely for the defence of the valuable rights, possessions, and commercial interests of your kingdoms) as soon as such terms of peace can be established as shall be just and honourable for your majesty and your allies; and, by procuring such advantages as from the successes of your majesty's arms may in reason and equity be expected, shall bring with them full security for the future.

"In order to the attainment of this great and desirable end, we beg leave to assure your majesty of our utmost readiness to concur in the effectual support of such farther measures as your majesty in your great wisdom shall judge necessary, or expedient, for carrying on the war with vigour in all parts, and for disappointing and repelling any desperate attempts which may be made upon these kingdoms.

"Our prayers are sincere and fervent, for the prolongation of your majesty's most precious life. Our endeavours shall never be wanting, to continue and confirm that affection to your majesty's sacred person, that confidence in your government, that zeal for the Protestant succession in your royal family, and that union and harmony so conspicuous amongst all your subjects, which is so essential to their own security and happiness, and to the frustrating the designs of your majesty's enemies."

The King's Answer.] His majesty returned this Answer:

"My Lords,

"I thank you for this very dutiful and affectionate Address. The satisfaction you so unanimously express in the successes with which it has pleased God to bless my arms by sea and land, and the assurances you give me of your farther support, are extremely agreeable to me, and cannot fail to produce the best effects in the present conjuncture."

The Commons' Address of Thanks.] The Commons being returned to their House, Lord Villiers moved the following Address, which was agreed to *nem. con.*

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"Most Gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, return your majesty our most humble thanks for the Speech delivered by your majesty's command to both Houses of Parliament.

"Permit us, Sir, with the sincerest zeal and duty to congratulate your majesty on the glorious and uninterrupted series of success and victory which hath attended your majesty's arms during the whole course of this distinguished and memorable year.

"With the deepest reverence, and most devout gratitude to Divine Providence, we acknowledge that manifest blessing and protection which God hath vouchsafed to bestow upon your majesty's councils and arms, and offer up our most ardent vows and prayers for its continuance.

"Your majesty's faithful Commons will not attempt to enumerate all the advantages and glories derived to your majesty and these kingdoms from the various successes which have been extended into every quarter of the world; but we humbly beg leave to assure your majesty, that our hearts are filled with the most grateful and lively sense of the happy consequences, which, under God, are owing to the wisdom, vigilance, and vigour, of your majesty's measures in the prosecution of this just and necessary war; particularly,

"The taking of the island of Goree, and the extension of our commerce on the coast of Africa, the defeat of the French fleet in the East-Indies, and the repulse of their land forces before Madras, whereby the dangerous designs of our enemies there have miscarried, and protection hath been given to our trade and settlements in those countries; the valuable conquest of Guadaloupe and Marie Galante in the West Indies; the reduction of so many forts and places in North America, completed and crowned by that glorious and decisive victory over the French army in Canada, and the surrender of their capital city of Quebec, effected with so much honour to the courage and conduct of your majesty's officers by sea and land, and with so much lustre to your intrepid forces; the important success of your majesty's fleet in pursuing, taking, and destroying a considerable part of the French squadron off Cape Lagos, and the blocking up, for so many months, the rest of the navy of France in their own ports, which hath greatly augmented the distress of our enemies, whilst it has protected and secured our commerce and navigation.

"Nor can we ever forget that critical, signal, and memorable, defeat of the French army near Minden, so justly the subject of lasting admiration and thankfulness, if we consider the superior numbers of the enemy, the great and able conduct of his serene highness prince Ferdinand of Brunswick, or the unconquerable valour of your majesty's troops.

"When we reflect upon this continued train of successes, part of which would have been sufficient to have signalized this long and active campaign, it is impossible for us not to express the highest satisfaction at the great ability, resolution, and perfect harmony, so conspicuous in your majesty's admirals and generals throughout the execution of your commands, and at the ardent courage which hath manifested itself in the behaviour of the officers and forces both by sea and land, with such personal and national glory: nothing but this spirit could have enabled them to surmount every difficulty arising from the superior number and advantageous situation of the enemy; and we are fully persuaded, that the like resolution, ardour, and zeal, excited and animated by those best incentives, your majesty's gracious acceptance and royal approbation of their eminent services, followed by the warmest and most universal applause of their country, will continue to give terror to the enemies, and confidence to the allies, of Great Britain.

"We view with the highest admiration the magnanimity and unexampled efforts of that great prince, your majesty's ally, the king of Prussia, whose consummate genius, unwearied activity, and unshaken constancy of mind, seconded by the bravery of his troops, have been able, in every situation, to supply resources sufficient to resist the united forces of so many and such formidable powers.

"Your majesty's faithful Commons feel with due gratitude your paternal care and concern for the peace and happiness of your people; and cannot too much admire that true greatness of mind, which disposes your heart, in the midst of prosperities, to wish that a stop may be put to the effusion of Christian blood, and that public tranquillity may be restored.

"We entirely rely on your majesty's known wisdom and firmness, that this desirable object, whenever it shall be attained, will be on such terms as shall be

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just and honourable for your majesty and your allies, and shall bring along with them full security for the future on solid and durable foundations, by procuring such advantages as may in reason and equity be expected from the successes of our arms, and which will fix in the minds of a grateful people the lasting remembrance of this happy æra, and of the benefits derived to them under your majesty's glorious and auspicious government.

"In order to effect this great end, we are thoroughly sensible that ample provision must be made for carrying on the war in all parts with the utmost vigour; and we assure your majesty, that we will cheerfully grant your majesty such supplies as shall be found necessary to sustain and press with effect all our extensive operations against the enemy, and at the same time, by the blessing of God, to repel and frustrate their daring designs against these kingdoms; convinced, from the long experience we have had of the wisdom and goodness of your majesty, that they will be applied in such manner as will best answer these great purposes.

"We cannot sufficiently testify our grateful sense of the high satisfaction which your majesty has been pleased to express in that perfect union and good harmony which so happily subsists amongst your faithful subjects, the salutary effects of which have been most conspicuous; and the pleasing experience we have had of them, joined to your majesty's paternal recommendation, must be the most powerful motives to enforce the continuance of those dispositions, so essential to the full exertion of our utmost strength, as well as to the tranquillity, good order, and happiness, of your majesty's people."

The King's Answer.] To which Address his majesty returned this Answer:

"Gentlemen,

"I return you my hearty thanks, for this most dutiful and affectionate Address, and for your unanimous zeal for the defence of my crown, and for the support of my allies: you may always rely on my constant care for the lasting welfare of my people."

1760.

The Thanks of the Commons given to Sir Edward Hawke for his Victory over the French Fleet.] January 28, 1760. Sir Edward Hawke being come to the House, the Speaker acquainted him, that the House had unanimously resolved, that the Thanks of this House be given to him for the late signal Victory obtained by him over the French fleet; and

Mr. *Speaker* gave him the Thanks of the House accordingly, as followeth:

Sir Edward Hawke;

The House has unanimously resolved, That their Thanks be given to you, for the late signal Victory, obtained by you, over the French fleet.

You are now, Sir, happily returned to your country, after a long, but most important service; and are returned, victorious and triumphant, and full of honour. You meet the applause of your countrymen, in their minds and hearts, and which they had manifested, before, in all the outward demonstrations of public joy and congratulation.

Your expedition was for the nearest and most affecting concern to us—The immediate defence of his majesty's kingdoms, against a disappointed and enraged enemy, meditating, in their revenge, our destruction at once: your trust, therefore, Sir, was of the highest nature; but to which, your characters of courage, fidelity, vigilance, and of abilities, were known to be equal. You soon freed us from fears; and have answered all our hopes, that bravery and conduct could give, or turbulent seas and seasons would admit of—even the last did not disturb or diminish your spirit and vigour. You had overawed the enemy in their ports—in their chief naval force, till shame, perhaps, or desperation, brought them forth at last. You sought them, subdued them, and, in their confusion and dismay, made those, who could escape, to seek their security in flight and disgrace.

Thus their long-preparing invasion was, then, broken and dispelled; and which cannot but bring to our remembrance the design and the fate of another armada, (in a former age of glory) whose defeat was at that time, the safety of England, and the lasting renown of the English navy.

These, Sir, are your late eminent services to your king and country, and have been, now, enumerated, not from any imagination that they are unknown any where, or can be ever forgotten, but that your presence with us makes them to rise, with their first strength, in our thoughts, as the recounting of them must give us a fresh spirit of joy, in our acknowledgments

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of them. Our acknowledgments, then, Sir, you have, for these your past services: permit us to add our expectations, too, of what may be your future merits, in defence of the rights and honour of your country, wherever you shall, again, command.

It is a very pleasing office to me, to convey these thanks of the House to you; and I do give you, in the name of the Commons of Great Britain, their Thanks, for the late signal Victory, obtained by you, over the French fleet.

Upon which Sir *Edward Hawke* said:

Mr. Speaker;

I own myself greatly at a loss, as to the proper manner of acknowledging the great honour conferred on me, by this august House, in their distinguished approbation of my conduct, on the 20th of November last. In doing my utmost, I only did the duty I owed my king and country, which ever has been, and shall be, my greatest ambition to perform faithfully and honestly, to the best of my ability—I can only assure this honourable House, that I receive this mark of honour, with the greatest respect; and shall ever retain the most grateful sense of it.

Before I sit down, permit me, Sir, in particular, to return you my most respectful thanks for the obliging manner in which you have communicated to me the great honour done me by this House, which I shall always esteem as the highest obligation.

Supplies granted for the Service of the Year 1760.] During this session the following Supplies were granted for the Service of the Year 1760.

	£.	s.	d.
NOVEMBER 22, 1759.			
1. That 70,000 men be employed for the sea service for the year 1760, including 18,355 marines.			
2. That a sum, not exceeding 4*l.* per man, per month, be allowed for maintaining the said 70,000 men, for 13 months, including the ordnance for sea service	3,640,000	0	0
NOVEMBER 27.			
1. That a number of land-forces, including those in Germany, and 4,010 invalids, amounting to 57,294 effective men, commission and non-commission officers included, be employed for the service of the year 1760.			
2. That, for defraying the charge of the 57,294 effective men, for guards and garrisons, and other his majesty's land-forces in Great Britain, Guernsey and Jersey, for the year 1760, there be granted a sum not exceeding*	1,383,748	0	10
3. That, for maintaining his majesty's forces and garrisons in the Plantations, Gibraltar, Guadaloupe, Africa, and the East Indies, and for provisions for the garrisons in Nova Scotia, Newfoundland, Gibraltar, Providence, Cape Breton, Guadaloupe, Senegal, and Goree, for the year 1760	816,168	19	0
4. That, for defraying the charge of four regiments of foot, on the Irish establishment, serving in North America, for 1760	35,744	8	4
5. That, for the pay of the general, and general staff officers, and officers of the hospital, for his majesty's land-forces	54,454	11	9
6. That, for defraying the charge of the embodied militia of the several counties in South Britain, and the sensible men of Argyleshire, and lord Sutherland's battalion of Highlanders, in North Britain, for 122 days, from the 25th Dec. 1759, to the 25th April, 1760	102,006	4	8
7. That, for defraying the charge of 38,750 men, of the troops of Hanover, Wolfenbuttle, Saxe Gotha, and count of Buckeburg, together with that of general and staff officers, actually employed against the common enemy, in concert with the king of Prussia, from the 25th Dec. 1759, to the 24th Dec. 1760, to be issued in advance every two months, in like manner as the pay of the Hessian forces now in the service of Great Britain; the said body of troops to be mustered by an English commissary, and the effective state thereof to be ascertained by the signature of the commander in chief of the said forces	447,882	10	5½
8. That, for defraying the charge of 2,120 horse, and 9,000 foot, together with the general and staff officers, the officers of the hospital, and officers			

* As the words, 'there be granted a sum not exceeding,' conclude every resolution for granting a certain sum of money, it is needless to repeat them.

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and others belonging to the train of artillery, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, for 366 days, from the 25th Dec. 1759, to the 24th Dec. 1760, together with the subsidy for the said time, pursuant to treaty	268,874	16	8
9. That, for defraying the charge of an additional corps of 920 horse, and 6,072 foot, together with the general and staff officers, the officers of the hospital, and officers and others belonging to the train of artillery, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, for 366 days, from the 1st Jan. 1760, to the 31st Dec. following, pursuant to treaty	97,850	4	10
	3,236,729	16	6½

NOVEMBER 30.

1. That, for the ordinary of the navy, including half-pay to sea-officers, for 1760	232,629	5	1
2. Towards carrying on the works of the hospital for sick and wounded seamen, building at Hasler, near Gosport	10,000	0	0
3. Towards carrying on the works of the hospital for sick and wounded seamen, building near Plymouth	10,000	0	0
4. Towards purchasing ground, erecting jetty-heads for careening wharfs, capstand-houses, store-houses, and other accommodations necessary for refitting his majesty's fleet at Halifax	8,000	0	0
5. Upon account, towards the support of the royal hospital at Greenwich, for the better maintenance of the seamen of the said hospital, worn out, and become decrepid, in the service of their country	10,000	0	0
6. For the charge of the office of ordnance, for land-service	230,296	4	6
7. For defraying the extraordinary expence of services performed by the office of ordnance, for land-service, and not provided for by parliament in 1759	280,563	16	11
	781,489	6	6

DECEMBER 7.

1. Towards paying off and discharging the debt of the navy	1,000,000	0	0
2. For the charge of transport-service between the 1st Jan. and 30th Sept. 1759, including the expence of victualling his majesty's land forces within the said time	501,078	16	6
3. Towards the buildings, rebuildings, and repairs, of his majesty's ships, for 1760	200,000	0	0
	1,701,078	16	6

DECEMBER 13.

1. For paying of pensions to the widows of such reduced officers of his majesty's land-forces and marines, as died, upon the establishment of half-pay, in Great Britain, and who were married to them before the 25th Dec. 1716, for 1760	2,042	0	0
2. For defraying the extraordinary expences of his majesty's land-forces, and other services incurred, to the 24th Nov. 1759, and not provided for by parliament	953,302	15	5½
3. To enable his majesty to discharge the like sum, raised in pursuance of an act made in the last session of parliament, and charged upon the first aids or supplies to be granted in this session of parliament	1,000,000	0	0
	1,955,344	15	5½

DECEMBER 17.

To enable his majesty to make good his engagements with the king of Prussia, pursuant to a convention between his majesty and the king of Prussia, concluded Nov. 9, 1759	670,000	0	0

DECEMBER 18.

Upon account, towards enabling the principal officers of his majesty's ordnance to defray the necessary charges and expences of taking down and removing the present magazine for gunpowder, and all buildings belonging thereto, situated near the town of Greenwich, and of erecting a new magazine for gunpowder, and other buildings necessary thereto, in some more proper and less dangerous situation; and to enable the said principal officers to purchase lands for that purpose	15,000	0	0

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DECEMBER 20.

1. To enable his majesty to make good his engagements with the landgrave of Hesse Cassel, pursuant to the separate article belonging to a treaty concluded Jan. 17, 1759, and renewed by a treaty concluded Nov. 9, 1759; the same to be paid as his most serene highness shall think it most convenient, in order to facilitate the means by which the most serene landgrave may again fix his residence in his own dominions, and give fresh courage to his faithful subjects by his presence, which is so much wished for	60,000	0	0
2. Towards enabling the governors and guardians of the Foundling-hospital to continue to carry into execution the good purposes for which they were incorporated	5,000	0	0
	65,000	0	0

JANUARY 17, 1760.

Upon account, as a present supply towards defraying the charges of forage, bread, bread waggons, train of artillery, and of provisions, wood, straw, &c. and other extraordinary expences and contingencies of his majesty's combined army under the command of prince Ferdinand	500,000	0	0

JANUARY 29.

To be applied towards the improving, widening, and enlarging, the passage over and through London bridge	15,000	0	0

FEBRUARY 7.

1. To replace, to the sinking-fund, the like sum paid out of the same, to make good the deficiency, on the fifth July, 1759, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund by an act 31 Geo. 2, for paying annuities at the Bank of England, in respect of 5,000,000 borrowed towards the supply granted to his majesty for the service of 1758	124,736	7	1½
2. To replace, to the sinking-fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1759, of the subsidy of poundage upon certain goods and merchandises imported, and an additional inland duty on coffee and chocolate, to answer annuities after the rate of 3*l.* per cent. charged thereupon, pursuant to an act 32 Geo. 2	84,141	15	8
3. To replace, to the sinking-fund, the like sum paid out of the same, to make good the deficiency, on the 5th Jan. 1759, on the duties on glass and spirituous liquors, to answer annuities on single lives, payable at the Exchequer, granted by an act 19 Geo. 2	8,752	6	10
4. To replace, to the sinking-fund, the like sum paid out of the same, to make good the deficiency, on the 5th Jan. 1759, of the additional stamp-duty, duty on licences for retailing wine, duty on coals exported, and surplus of the duty on licences for retailing spirituous liquors, made a fund by an act 30 Geo. 2, for paying annuities at the Bank of England, after the rate of 3*l.* per cent. on 3,000,000, as also the life annuities payable at the Exchequer, and other charges thereupon	7,651	9	8½
	225,281	19	4

FEBRUARY 11.

1. For defraying the charge of an augmentation of 1,001 light-cavalry, the troops of Hanover, in the pay of Great Britain, for 366 days, from Dec. 25, 1759, to Dec. 24, 1760	34,333	8	0
2. For defraying the charge of an augmentation of four squadrons of hunters and hussars, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, from Dec. 25, 1759, to Dec. 24, 1760	20,776	5	5
3. For defraying the charge of an augmentation of five battalions to the king's army in Germany, each battalion consisting of one troop of 101 men and four companies of foot, of 125 men in each company, with a corps of artillery, for 366 days, from Dec. 25, 1759, to Dec. 24, 1760	52,902	19	2
	108,012	12	7

FEBRUARY 12.

1. Upon account of the reduced officers of his majesty's land-forces and marines, for 1760	35,651	9	0
2. For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse-guards, and regiment of horse,			

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reduced, and to the superannuated gentlemen of the four troops of horse-guards	2,946	0	0
3. Upon account, for supporting and maintaining the settlement of his majesty's colony of Nova Scotia	11,785	6	10
4. Upon account, for defraying the charges incurred, by supporting and maintaining the said settlement, in 1758, and not provided for by parliament	5,851	4	9
5. Upon account, for defraying the charges of the civil establishment of his majesty's colony of Georgia, and other incidental expences attending the same, from June 24, 1759, to June 24, 1760	4,057	10	0
	60,291	10	7

MARCH 31.

1. Upon account, to enable his majesty to give a proper compensation to the respective provinces in North America for the expences incurred by them in the levying, clothing, and pay, of the troops raised by the same, according as the active vigour and strenuous efforts of the respective provinces shall be thought by his majesty to merit	200,000	0	0
2. Upon account, to be paid to the East India company, towards enabling them to defray the expence of a military force, in their settlements, to be maintained by them, in lieu of the battalion of his majesty's forces commanded by colonel Adlercron, withdrawn from thence, and now returned to Ireland	20,000	0	0
3. Upon account, for out-pensioners of Chelsea hospital, for 1760	25,000	0	0
4. For defraying the charge of several augmentations to his majesty's forces, since the estimate of guards and garrisons for the year 1760 was presented, from their respective commencements, to the 24th Dec. 1760	134,139	17	4
5. Upon account, towards enabling the governors and guardians of the Foundling-hospital to maintain, educate, and bind apprentice, such children as were admitted into the said hospital on or before the 8th of Feb. 1760	44,157	10	0
	423,297	7	4

APRIL 28.

1. For defraying the charge of the embodied militia of the several counties in South Britain from the respective times that they were embodied, and of the fensible men of Argyleshire, and lord Sutherland's battalion of Highlanders, in North Britain, from the commencement of their establishment, to the 24th Dec. 1760	260,104	16	8
2. Upon account, for defraying the charge of clothing for the embodied militia, for 1760	30,722	0	0
3. For reimbursing, to the colony of New York, their expences in furnishing provisions and stores to the troops raised by them for his majesty's service, for the campaign in 1756	2,977	7	8
4. To be employed in maintaining and supporting the British forts and settlements upon the coast of Africa	10,000	0	0
5. Upon account, towards enabling the governors and guardians of the Foundling-hospital to maintain and educate such children as were admitted into the said hospital between the 8th Feb. and 26th March, 1760; and that the same be issued and paid, for the use of the said hospital, without fee or reward, or any deduction whatsoever	3,127	10	0
	306,931	14	4

APRIL 29.

1. For defraying the charge of 959 cavalry, and 1,454 infantry, the troops of the reigning duke of Brunswick, in the pay of Great Britain, pursuant to treaty	66,926	3	0½
2. For defraying the charge of an augmentation to the troops of the reigning duke of Brunswick, in the pay of Great Britain, pursuant to an ulterior convention, concluded and signed at Paderborn the 5th March, 1760	23,843	5	11
3. For defraying the charge of two additional squadrons of hussars, and two companies of chasseurs, together with an augmentation to the horse, dragoons, and foot, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, for 1760	101,096	3	2
4. For defraying the extraordinary expences of his majesty's land-forces, and other services, incurred from the 24th Nov. 1759, to the 24th Dec.			

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following, and not provided for	420,120	1	0
	611,985	13	1¼

MAY 6.

1. To make good the deficiency of the grants for the service of 1759	75,170	0	3¼
2. To make good the like sum issued by his majesty, to Jane Hardinge, widow, as administratrix of Nicholas Hardinge, esq. deceased, as a recompence for his pains and service, in preparing copies of the Journals of this House for the press, and in managing and directing the printing of the same	3,000	0	0
3. To make good the like sum issued, by his majesty, to Jeremiah Dyson, esq. towards defraying the expence of printing the Journals of this House, from the beginning of the 9th parliament of Great Britain, to the end of the 4th session of this present parliament, and of making and printing indexes to the 2nd, 3rd, 4th, 5th, 6th, and 7th volumes of the Journals of this House	2,000	0	0
4. Upon account, towards defraying the charge of pay and clothing for the unembodied militia, for the year ending the 25th March, 1761	80,000	0	0
5. To enable the principal officers of his majesty's ordnance to pay interest, after the rate of 4*l.* per cent. per ann. from the 25th August, 1759, to the 25th April last, for the sum of 23,800*l.* 11*s.* 11*d.* remaining in his majesty's office of ordnance, upon the said 25th April, and not paid into the hands of the deputy of the king's remembrancer of the court of exchequer, at Westminster, as directed by an act, made in the last session of parliament, for making compensation for lands and hereditaments, purchased for his majesty's service, at Chatham, Portsmouth, and Plymouth, by reason of doubts and difficulties, which have arisen, touching the execution of the said act	634	13	7
	160,804	13	10¼

MAY 10.

1. Upon account, to enable his majesty to defray any extraordinary expences of the war, incurred, or to be incurred, for the service of 1760; and to take all such measures, as may be necessary, to disappoint, or defeat, any enterprizes or designs of his enemies, and as the exigency of affairs may require	1,000,000	0	0
2. For defraying the charge of a regiment of light-dragoons, and of an additional company to lieutenant-colonel Vaughan's corps, for 1760	12,874	15	10
	1,012,874	15	10

MAY 13.

1. For defraying the extraordinary charge of his majesty's mint, in the Tower of London, in 1759	11,940	13	10
2. Upon account, for paying and discharging so much of the debts, with the necessary expences attending the payment of the same, claimed and sustained upon the lands and estate which became forfeited to the crown by the attainder of the late titular lord John Drummond, brother to the late titular duke of Perth, as shall be remaining unsatisfied, and not already provided for	2,500	0	0
	14,440	15	10
Total of Supplies granted for the year 1760	15,503,563	15	9½

During this Session there were no debates on any public measure, in either House of Parliament.*

The King's Speech at the Close of the Session.] May 22. The Session was put an end to by Commission, with the following Speech to both Houses:

"My Lords and Gentlemen;

"We have received the king's com-

* "This summer was distinguished by a remarkable trial. Laurence earl Ferrers, a nobleman of a violent spirit, who had committed many outrages, and in the opinion of all who knew him, given manifold proofs of insanity, at length perpetrated a murder, which subjected him to the cognizance of justice. His deportment to his lady was so brutal, that application had been made to the House of Peers, and a separation effected by act of parliament.

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mands to put an end to this session of parliament; and, upon this occasion, to assure you, that his majesty looks back, with entire satisfaction, on your proceedings during the course of it. The duty and affection which you have expressed for his person and government, and the zeal and unanimity which you have shewn in maintaining the true interest of your country, can only be equalled by what his majesty has formerly experienced from this parliament.

Trustees were nominated; and one Mr. Johnson, who had, during the best part of his life, been employed in the family, was now appointed receiver of the estates, at the earl's own request. The conduct of this man, in the course of his stewardship, gave umbrage to lord Ferrers, whose disposition was equally jealous and vindictive. He imagined all his own family had conspired against his interest, and that Johnson was one of their accomplices; that he had been instrumental in obtaining the act of parliament, which his lordship considered as a grievous hardship; that he had disappointed him in regard to a certain contract about coal-mines; in a word, that there was a collusion between Johnson and the earl's adversaries. Fired with these suppositions, he first expressed his resentment, by giving Johnson notice to quit the farm which he possessed on the estate; but finding the trustees had confirmed the lease, he determined to gratify his revenge by assassination, and laid his plan accordingly. On Sunday the 13th of January he appointed this unhappy man to come to his house on the Friday following, in order to peruse papers or settle accounts; and Johnson went thither without the least supposition of what was prepared for his reception: for although he was no stranger to his lordship's dangerous disposition, and knew he had some time before incurred his displeasure, yet he imagined his resentment had entirely subsided, as the earl had of late behaved to him with remarkable complacency. He therefore, at the time appointed, repaired to his lordship's house at Stanton, in Leicestershire, at the distance of a short mile from his own habitation, and was admitted by a maid-servant. The earl had dismissed every person in the house, upon various pretences, except three women, who were left in the kitchen. Johnson, advancing to the door of his apartment, was received by his lordship, who desired him to walk into another room, where he joined him in a few minutes, and then the door was locked on the inside. After a great deal of warm expostulation, the earl insisted upon his subscribing a paper, acknowledging himself a villain; and, on his refusing to comply with this demand, declared he would put him to death. In vain the unfortunate man remonstrated against this cruel injustice, and deprecated the indignation of this furious nobleman. He remained deaf to all his entreaties, drew forth a pistol which he had loaded for the purpose, and commanding him to implore heaven's mercy on his knees, shot him through the body, while he remained in that supplicating attitude. The consequence of this violence was not immediate death; but his lordship, seeing the wretched victim still alive and sensible, though agonized with pain, felt a momentary motion of pity. He ordered his servants to convey Mr. Johnson up stairs to a bed, to send for a surgeon, and give immediate notice of the accident to the wounded man's family. When Mr. Johnson's daughter came to the house, she was met by the earl, who told her he had shot her father on purpose, and with deliberation. The same declaration he made to the surgeon, on his arrival. He stood by him while he examined the wound, described the manner in which the ball had penetrated, and seemed surprised that it should be lodged within the body. When he demanded the surgeon's opinion of the wound, the operator thought proper to temporise, for his own safety, as well as for the sake of the public, lest the earl should take some other desperate step, or endeavour to escape. He therefore amused him with hopes of Johnson's recovery, about which he now seemed extremely anxious. He supported his spirits by immoderate drinking, after having retired to another apartment with the surgeon, whom he desired to take all possible care of his patient. He declared, however, that he did not repent of what he had done; that Johnson was a villain, who deserved to die; that, in case of his death, he (the earl) would surrender himself to the House of Peers, and take his trial. He said he could justify the action to his own conscience, and owned his intention was to have killed Johnson outright; but as he still survived, and was in pain, he desired that all possible means might be used for his recovery. Nor did he seem altogether neglectful of his own safety: he endeavoured to tamper with the surgeon, and suggest what evidence he should give when called before a court of justice. He continued to drink himself into a state of intoxication, and all the cruelty of his hate seemed to return. He would not allow the wounded man to be removed to his own house; saying, he would keep him under his own roof, that he might plague the villain. He returned to the chamber where Johnson lay, insulted him with the most opprobrious language, threatened to shoot him through the head, and could hardly be restrained from committing further acts of violence on the poor man, who was already in extremity. After he retired to bed, the surgeon procured a sufficient number of assistants, who conveyed Mr. Johnson in an easy-chair to his own house, where he expired that same morning in great agonies. The same surgeon assembled a number of armed men to seize the murderer, who at first threatened resistance, but was soon apprehended, endeavouring to

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"His majesty has commanded us to acquaint you, that it would have given him the most sensible pleasure to have been able to communicate to you, that his sincere endeavours to promote a general pacification had met with more suitable returns before this time. His majesty, in conjunction with his good brother and ally the king of Prussia, chose to give their enemies proofs of this equitable disposition, in the midst of a series of glorious victories; an opportunity the most proper to do it with dignity, and to manifest to all Europe the purity and moderation of his views. After such a conduct, his majesty has the comfort to reflect, that the further continuance of the calamities of war cannot be imputed to him, or his allies; and trusts in the blessing of heaven upon the justice of his arms, and upon those ample means, which your zeal, in so good a cause, has wisely put into his

make his escape, and committed to the county prison. From thence he was conveyed to London by the gaoler of Leicester, and conducted by the usher of the Black Rod and his deputy into the House of Lords, where the coroner's inquest, and the affidavits touching the murder, being read, the gaoler delivered up his prisoner to the care of the Black Rod, and he was immediately committed to the Tower. He appeared very calm, composed, and unconcerned, from the time of his being apprehended; conversed coolly on the subject of his imprisonment; made very pertinent remarks upon the nature of the Habeas Corpus act of parliament, of which he hoped to avail himself; and when they withdrew from the House of Peers, desired he might not be visited by any of his relations or acquaintances.

"The circumstances of this assassination appeared so cruel and deliberate, that the people cried aloud for vengeance; and the government gave up the offender to the justice of his country. The lord-keeper Henley was appointed lord high steward for the trial of earl Ferrers, and sat in state with all the peers and judges in Westminster-hall, which was for this purpose converted into a very august tribunal. On the 16th of April the delinquent was brought into court about ten; and the lord steward with the peers taking their places, he was arraigned aloud in the midst of an infinite concourse of people. The murder was fully proved: but the earl pleaded insanity of mind; and, in order to establish this plea, called many witnesses to attest his lunacy in a variety of instances, which seemed too plainly to indicate a disordered imagination. The lawyers, who managed the prosecution in behalf of the crown, endeavoured to invalidate the proofs of his lunacy, by observing, that his lordship was never so much deprived of his reason but that he could distinguish between good and evil; that the murder he had committed was the effect of revenge for a conceived injury of some standing; that the malice was deliberate, and the plan artfully conducted; that immediately after the deed was perpetrated the earl's conversation and reasoning were cool and consistent, until he drank himself into a state of intoxication; that, in the opinion of the greatest lawyers, no criminal can avail himself of the plea of lunacy, provided the crime was committed during a lucid interval: but his lordship, far from exhibiting any marks of insanity, had, in the course of this trial, displayed uncommon understanding and sagacity in examining the witnesses, and making many shrewd and pertinent observations on the evidence which was given. These sentiments were conformable to the opinion of the peers, who unanimously declared him guilty.

"The trial was continued for two days; and on the third the lord steward, after having made a short speech touching the heinous nature of the offence, pronounced the same sentence of death upon the earl which malefactors of the lowest class undergo; that from the Tower, in which he was imprisoned, he should, on the Monday following, be led to the common place of execution, there to be hanged by the neck, and his body be afterwards dissected and anatomized. This last part of the sentence seemed to shock the criminal extremely: he changed colour, his jaw quivered, and he appeared to be in great agitation; but during the remaining part of his life he behaved with surprising composure, and even unconcern. After he had received sentence, the lords his judges, by virtue of a power vested in them, respited his execution for one month, that he might have time to settle his temporal and spiritual concerns. Before sentence was passed, the earl read a paper, in which he begged pardon of their lordships for the trouble he had given, as well as for having, against his own inclination, pleaded lunacy at the request of his friends. He thanked them for the candid trial with which he had been indulged, and entreated their lordships to recommend him to the king for mercy. He afterwards sent a letter to his majesty, remonstrating, that he was the representative of a very ancient and honourable family, which had been allied to the crown; and requesting that, if he could not be favoured with the species of death which in cases of treason distinguishes the nobleman from the plebeian, he might at least, out of consideration for his family, be allowed to suffer in the Tower, rather than at the common place of execution; but this indulgence was refused. From his return to the Tower to the day of his execution, he betrayed no mark of apprehension or impatience; but regulated his affairs with precision, and conversed without concern or restraint. His lordship was executed on the 5th of May." Smollett.

For the Trial at large, see the New Edition of the State Trials, edited by Howell.

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hands, that his future successes, in carrying on the war, will not fall short of the past;-and that, in the event, the public tranquillity will be restored on solid and durable foundations.

"We are further commanded to acquaint you, that his majesty has taken the most effectual care to augment the combined army in Germany; and, at the same time, to keep up such a force at home, as may frustrate any attempts of the enemy to invade these kingdoms, which have hitherto ended only in their own confusion.

"The royal navy was never in a more flourishing and respectable condition; and the signal victory obtained last winter over the French fleet, on their own coasts, as it has added lustre to his majesty's arms, has given fresh spirit to his maritime forces, and reduced the naval strength of France to a very low ebb.

"His majesty has disposed his squadrons in such a manner, as may best conduce to the annoyance of his enemies; to the defence of his own dominions both in Europe and America; and to the preserving and pursuing his conquests, as well as to the protection of the trade of his subjects, which he has extremely at heart.

"Gentlemen of the House of Commons;

"Nothing could relieve his majesty's royal mind, under the anxiety which he feels for the burdens of his faithful subjects, but the public-spirited cheerfulness with which you have granted him such large supplies, and his conviction, that they are necessary for the security and essential interests of his kingdoms. The king has enjoined us to return you his hearty thanks for them: and to assure you of their due application to the purposes for which they have been given.

"My Lords and Gentlemen;

"We have nothing further in command from his majesty, but to recommend to you the continuance and improvement of that union and good harmony, which he has observed with so much pleasure, and from which he has derived such important effects. Make it your study to promote those desirable objects; to support the king's government, and the good order of your respective countries; and to consult your own real happiness and prosperity. This behaviour, his majesty graciously assures you, will be the most acceptable demonstration of your duty to him."

The Parliament was then prorogued to the 17th of July.

DEATH OF KING GEORGE THE SECOND.*] On the 25th of October 1760, George the Second, king of Great Britain,

* "George the Second died at the age of 77, after a long reign of 34 years, distinguished by a variety of important events, and chequered with a vicissitude of character and fortune. He was in his person rather lower than the middle size, well shaped, erect, with eyes remarkably prominent, a high nose, and fair complexion. In his disposition he is said to have been hasty, prone to anger, especially in his youth, yet soon appeased; otherwise mild, moderate, and humane: in his way of living temperate, regular, and so methodical in every branch of private œconomy, that his attention descended to objects which a great king (perhaps) had better overlook.

"He was fond of military pomp and parade; and personally brave. He loved war as a soldier; he studied it as a science; and corresponded on this subject with some of the greatest officers whom Germany has produced. The extent of his understanding, and the splendor of his virtue, we shall not presume to ascertain, nor attempt to display; we rather wish for opportunities to expatiate on his munificence and liberality; his generous regard to genius and learning; his royal encouragement of those arts, by which a nation is at once benefited and adorned.

"With respect to his government, it very seldom deviated from the institutions of law; or encroached upon private property; or interfered with the common administration of justice. The circumstances that chiefly marked his public character, were a predilection for his native country, and a close attention to the political interests of the Germanic body: points and principles to which he adhered with the most invincible fortitude; and, if ever the blood and treasure of Great Britain were sacrificed to these considerations, we ought not so much to blame the prince who acted from the dictates of natural affection, as we should detest a succession of venal ministers, all of whom in their turns devoted themselves, soul and body, to the gratification of this passion or partiality, so prejudicial to the true interest of their country." Smollett.

"George the Second had not better parts than his father, but much stronger animal spirits, which made him produce and communicate himself more. Every thing in his composition was little; and he had all the weaknesses of a little mind, without any of the virtues, or even the vices, of a great one. He loved to act the king, but mistook the part; and the royal dignity shrunk into the electoral pride. He was educated upon that scale, and never enlarged its dimensions with his dominions. As elector

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without any previous disorder, was in the morning suddenly seized with the agony of death, at the palace at Kensington. He had risen at his usual hour, drank his chocolate, and enquired about the wind, as anxious for the arrival of the foreign

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of Hanover he thought himself great; as king of Great Britain only rich. Avarice, the meanest of all passions, was his ruling one; and I never knew him deviate into any generous action.

"His first natural movements were always on the side of justice and truth; but they were often warped by ministerial influence, or the secret twitches of avarice. He was generally reckoned ill-natured, which indeed he was not. He had rather an unfeeling than a bad heart: but I never observed any settled malevolence in him, though his sudden passions, which were frequent, made him say things which, in cooler moments, he would not have executed. His heart always seemed to me to be in a state of perfect neutrality between hardness and tenderness. In council he was excessively timorous, and thought by many to be so in person; but of this I can say nothing on my own knowledge.

"In his dress and in his conversation he affected the hero so much, that from thence only many called his courage in question: though, by the way, that is no certain rule to judge by, since the bravest men, with weak understandings, constantly fall into that error. Little things, as he has often told me himself, affected him more than great ones; and this was so true, that I have often seen him put so much out of humour at his private levee, by a mistake or blunder of a valet de chambre, that the gaping crowd admitted to his public levee have, from his looks and silence, concluded that he had just received some dreadful news. Tacitus would always have been deceived by him.

"Within certain bounds, but they were indeed narrow ones, his understanding was clear, and his conception quick: and I have generally observed, that he pronounced sensibly and justly upon single propositions; but to analyse, separate, combine, and reduce to a point, complicated ones, was above his faculties.

"He was thought to have a great opinion of his own abilities; but, on the contrary, I am very sure that he had a great distrust of them in matters of state. He well knew that he was governed by the queen, while she lived; and that she was governed by sir Robert Walpole: but he kept that secret inviolably, and flattered himself that nobody had discovered it. After their deaths he was governed successively by different ministers, according as they could engage for a sufficient strength in the House of Commons; for, as avarice was his ruling passion, he feared, hated, and courted, that money-giving part of the legislature.

"He was by no means formed for the pleasures of private and social life, though sometimes he tried to supple himself to them; but he did it so ungracefully, that both he and the company were mutual restraints upon each other, and consequently soon grew weary of one another. A king must be as great in mind as in rank, who can let himself down with ease to the social level, and no lower.

"He had no favourites, and indeed no friends, having none of that expansion of heart, none of those amiable connecting talents, which are necessary for both. This, together with the sterility of his conversation, made him prefer the company of women, with whom he rather sauntered away than enjoyed his leisure hours. He was addicted to women, but chiefly to such as required little attention and less pay. He never had but two avowed mistresses of rank, the countesses of Suffolk and Yarmouth. The former, though he passed half his time with her, had no degree of influence, and but a small one of profit; the latter, being taken after the death of the queen, had more of both, but not an extravagant share of either.

"He was very well-bred; but it was in a stiff and formal manner, and produced in others that restraint which they saw he was under himself. He bestowed his favours so coldly and ungraciously, that they excited no warm returns in those who received them. They knew that they owed them to the ministerial arrangements for the time being, and not to his voluntary choice. He was extremely regular and methodical in his hours, in his papers, and above all in his private accounts; and would be very peevish if any accident, or negligence in his ministers, broke in upon that regular allotment of his time.

"He had a very small degree of acquired knowledge: he sometimes read history, and, as he had a very good memory, was exceedingly correct in facts and dates. He spoke French and Italian well, and English very properly, but with something of a foreign accent. He had a contempt for the belles lettres, which he called trifling. He troubled himself little about religion, but jogged on quietly in that in which he had been bred, without scruples, doubts, zeal, or enquiry. He was extremely sober and temperate, which, together with constant gentle exercise, prolonged his life beyond what his natural constitution, which was but a weak one, seemed to promise. He died of an apoplexy; after a reign of three and thirty years. He died unlamented, though not unpraised because he was dead.

"Upon the whole, he was rather a weak than a bad man or king. His government was mild as to prerogative, but burthensome as to taxes, which he raised when and to what degree he pleased, by corrupting the honesty, and not by invading the privileges, of parliament. I have dwelt the longer upon this character, because I was so long and so well acquainted with it; for above thirty years I was always near his person, and had constant opportunities of observing him, both in his regal robes and in his undress. I have accompanied him in his plea-

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mails; then he opened a window of his apartment, and perceiving the weather was serene, declared he would walk in the garden. In a few minutes after this declaration, while he remained alone in his chamber, he fell down upon the floor; the

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sures, and been employed in his business. I have, by turns, been as well and as ill with him as any man in England. Impartial and unprejudiced I have drawn this character from the life, and after a forty years sitting." Lord Chesterfield.

"The personal character of George the Second was truly worthy and venerable. He had unquestionably a very high sense of, and regard for the Deity. His regard to the public offices of religion was remarkably grave and serious, strictly attentive to the various parts of the service, and without any appearance of absence of mind from the solemnities of worship in which he was engaged. Had the pattern he gave them been followed, religion would have been more universally encouraged by the example of the rich and great, and the credit of its institutions supported by their serious and diligent attendance on them. His temperance was remarkable and habitual throughout the whole course of his life; his pleasures and amusements were few and regular—never eagerly sought after, never indulged at the expence of the public, the dissipation and waste of his revenues, and the neglect of the great affairs of government.

"He had his particular friends, and was constant in his regards to them, but no minions and favourites to whom he absolutely resigned himself, or whom he raised from beggary by extravagant donations and lucrative employments, and on whom he prostituted unmerited honours. They were persons of birth, family, and fortune, whose affections he had experienced, on whose fidelity and honour he could entirely depend, and who he knew were fast friends to the religion and liberties of Great Britain.

"His strict regard to justice and equity appeared in the constant and regular discharge of his household and family expences, and his advancing men of worth, probity, and character, to the seats of justice, with full liberty to form all their decrees. His charity was liberal and extensive, and from indisputable authority, very far exceeded that of the most beneficent and bountiful of all his predecessors; and he had that humanity and tenderness of mind, the very ordering to execution malefactors that were unfit to live was a painful part of his duty, and which he never performed but with reluctance—even the joy of conquest could not prevent the tear of compassion from falling over a worthy man, whose life was a sacrifice to the victory he obtained.

"He had a most sincere and affectionate love to his people, and regard for the honour, welfare, and interest of the nation.—When he asked for extraordinary supplies, it was with concern and regret, for the burden it brought on the people. Every subject was sure of relief from oppression and violence, and of the protection and benefit of the laws he lived under. Not one single stretch of power, not one law dispensed with, not one proof of an arbitrary disposition, no perversion of justice under colour of law, no schemes of iniquity and fraud to harass and plunder the subject, can be charged upon him, or blemish and stain one measure of his reign. He was truly the minister of God to the people for good. But few comparatively of those who were rebels against him suffered for their treason, and many of those who were actually condemned were saved and discharged, and money given them for their support till they arrived at their respective homes, where they afterwards lived unmolested.

"He was a firm friend to the Protestant religion, the assertor and patron of religious and civil liberty, and an utter enemy to all methods of persecution for conscience sake. His integrity, regard to his word, and steadiness to his engagements, was an universally acknowledged part of his character. It hath been observed to his honour, that he never departed from his promise to particular persons but twice, and then there arose some unforeseen circumstances that put it out of his power to perform it; and as to all national transactions and foreign engagements and treaties, he religiously adhered to them.

"In his natural disposition he was a lover of peace, but still he had great spirit and resolution. He was resolute in council, and was not afraid of war, and had courage and fortitude to run all risks and hazards of it. And as he was brave, so he had the honour of being successful in his last war; he lived to see the enemies fleets broken and dissipated, their whole marine almost annihilated, their armies beaten and flying, their strong holds and forts demolished or possessed by his forces, the capital of their American dominions subdued, and a country larger than France itself, with all her provinces, rendered subject to the British empire.

"He lived to see all parties and ranks of men firmly united in their affection to his person, and attachment to his government; all furious contests and divisions at an end, all animosities and hatreds so laid aside as though they had never subsisted: his ministers acting with mutual confidence, his councils united, and, as though one spirit had possessed the whole nation, all the various classes of his people easy and contented in the protection they enjoyed, the measures that were pursued, the advantages they had gained, and the pleasing prospects they had before them of a farther successful war, or a speedy, honourable, and lasting peace.

"To sum up the whole; he was religious without superstition; temperate without parsimony; moderate in his pleasures without a stoical contempt of them; just without rigour;

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noise of his fall brought his attendants into the room, who lifted him on the bed, where he desired, in a faint voice, that the princess Amelia might be called; but before she could reach the apartment he had expired. An attempt was made to bleed him, but without effect; and indeed his malady was far beyond the reach of art: for when the cavity of the thorax or chest was opened, and inspected by the sergeant-surgeons, they found the right ventricle of the heart actually ruptured, and a great quantity of blood discharged through the aperture into the surrounding pericardium; so that he must have died instantaneously, in consequence of the effusion.

charitable without profusion; rich without covetousness; frugal without sordidness; humane and tender without weakness and effeminacy; sincere in his friendship, but not the property of favourites; a lover of his people without relaxing the vigour of government; a supporter of the laws without relentless severity; a punisher of vice while he pitied the offender; who extinguished rebellion, but shewed mercy to rebels; was a friend to the Protestant religion without persecuting even Papists; a lover of liberty whilst he curbed licentiousness; steady without obstinacy; yielding to the circumstances of times without descending from his dignity: true to his word without evasion or perfidy; calm in prosperity, but not unthankful for it; patient in affliction, but not insensible; a lover of peace without sacrificing any valuable interests to the name of it; averse to war, but of spirit to carry on a just one; brave in battle without ferocity and rashness; successful without vanity and self-elation; victorious without pride; rich in the treasures of his people without any dissipation of them: preserved to a very advanced age without any remarkable impairing of or defect in his powers; happy in the easy circumstances of his death, and never more beloved and honoured than in the decline of his life, and when an all-wise Providence deprived us of the farther blessings of his government.

"He was the father of his country, the friend of his people, the patron of liberty, and deserved to be numbered among the greatest and best of princes; and his reign will ever be distinguished in the British annals for the glory of the sovereign, and the happiness of his people." Dr. Chandler.

"An excellent king, possessed of as much justice, and mercy, and good-nature, as ever prince was endowed with; and who had so strict an adherence to the laws of our country, that not an instance can be pointed out, during his whole reign, wherein he made the least attempt upon the liberty, or property, or religion, of a single person." Archbishop Herring.

KING GEORGE THE THIRD,
A. D. 1760.

EIGHTH SESSION
OF THE
ELEVENTH PARLIAMENT
OF
GREAT BRITAIN.

ACCESSION OF KING GEORGE THE THIRD.*] October 25, 1760. George the Second was succeeded by his grandson George, the son of Frederick Prince of Wales, and of Augusta Princess of Saxe Gotha, who had recently completed his twenty-second year. A Council assembled this day at Carleton House, the residence of the Princess Dowager, where the new King was present, and was pleased to make the following Declaration:

"The loss that I and the nation have sustained by the death of the king my grandfather, would have been severely felt

* The King found, on his accession, an able administration, strong from the combination of all parties, and popular from uninterrupted success. The duke of Newcastle was the ostensible head of this ministry. Mr. Pitt was secretary of state, and was supported in the cabinet by his brother-in-law, lord Temple. The earl of Granville was president of the council, and Mr. Fox paymaster of the forces. Several of the remaining members of administration were highly respectable for talents and integrity; amongst whom must be noticed lord keeper, afterwards lord chancellor Northington, the duke of Devonshire, lord chamberlain, Mr. Legge, chancellor of the exchequer, lord Anson, first lord of the admiralty, and lord Holdernesse, secretary of state.

"The King having been proclaimed in the usual form on the day after his accession, held a council at St. James's on the ensuing day, when his brother the duke of York, and the earl of Bute, were sworn in as members. The liturgy was also directed to be altered in those

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at any time, but coming at so critical a juncture, and so unexpected, it is by many circumstances augmented, and the weight now falling upon me much increased: I feel my own insufficiency to support it as I wish; but animated by the tenderest affection for this my native country, and depending on the advice, experience, and abilities of your lordships, on the support and assistance of every honest man, I enter with cheerfulness into this arduous situation, and shall make it the business of my life to promote, in every thing, the glory and happiness of these kingdoms, to preserve and strengthen both the constitution in Church and State; and, as I mount the throne in the midst of an expensive, but just and necessary war, I shall endeavour to prosecute it in the manner the most likely to bring on an honourable

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parts where prayers are said for the royal family. These circumstances in themselves would not claim any notice, but some offence was taken at the time, and it was afterwards a source of frequent animadversion, that the duke of Cumberland and the princess Amelia, who were before particularly mentioned, were now only included in the general term, 'and all the royal family.' This change was merely a point of etiquette, and not made in consequence of the dislike which the princess dowager entertained against the duke and princess, but the popularity of the duke of Cumberland became a medium through which much abuse, vented against the King and the princess dowager, was afterwards rendered agreeable to the public.

"The King's friendship for the earl of Bute led to extensive and permanent consequences. John earl of Bute was son of James second earl of Bute, by Ann Campbell daughter of Archibald first duke of Argyle. He received his education at Eton; and at an early period of his life was introduced to the household of Frederick prince of Wales, to whom he was lord of the bed-chamber. On the death of the prince he retired to the country, and took no share in political transactions, though he was often consulted by the princess. On the establishment of the young prince's household he was appointed groom of the stole, in which place he was continued after his accession. He had not occupied any public office; was unacquainted with the business and intrigues of state; and though he possessed an active mind, replete with elegant and abstruse learning, and was well acquainted with the theory of the British constitution, he was not competent to the task of instructing a young prince in the practical science of governing a kingdom, where the component parts of the legislature are so nicely balanced, and their respective powers and operations so strictly guarded. It could not afford ground of surprize that the King, young and unacquainted with the persons of those who formed a successful and popular administration, should place among his confidential servants, a nobleman whom he had long esteemed, and who possessed the good opinion of his parent in an eminent degree: it could not be a subject of animadversion, that such a person should obtain an ample portion of the King's regard; nor would this circumstance have affected the course of political affairs, had not a new system followed his introduction into the cabinet.

"The last two monarchs being foreigners, and opposed by a native prince who had numerous adherents, as well among the people as in some of the most illustrious houses, confided a large portion of their power to a few distinguished families, in order to secure possession of the crown. These families, strengthened by union and exclusive influence, became not only independent of, but, in many respects, superior to the throne. Swayed by a predilection for their continental dominions, the first two sovereigns of the House of Hanover incurred severe animadversions from the members of opposition; and the necessity of frequent justifications rendering them still more dependent on the leaders of the ministerial party, reduced them almost to a state of pupilage.

"But the new King, being exempt from foreign partialities, ascending the throne at a period when the claims of the exiled family were fallen into contempt, was enabled to emancipate himself from the restraint to which his ancestors had submitted. The earl of Bute formed the plan of breaking the phalanx which constituted and supported the ministry, and of securing the independence of the crown, by a moderate exertion of the constitutional prerogative. This plan in itself was well conceived, and necessary; but the earl of Bute was not a proper person to carry it into effect. He was not connected either by blood or by familiar intercourse, with the leading families in England; he was not versed in the arts of popularity, nor used to the struggles of parliamentary opposition; and his manners were cold, reserved, and unconciliating. Prejudices were easily excited against him as a native of Scotland, and he could only oppose to a popular and triumphant administration, and a long established system, such friends as hope or interest might supply, and the personal esteem of the king, which was rendered less valuable by the odium attached to the name of favourite.

"The conflicts of party did not immediately commence. The King at his accession was highly popular; his proclamations for repressing vice and immorality gave general satisfaction; loyal and affectionate addresses poured in from every part of the realm, and all regret for the late king seemed to be buried with him." Adolphus.

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and lasting peace, in concert with my allies."

Whereupon the lords of the council made it their humble request to his Majesty, That this his Majesty's most gracious Declaration to their lordships, might be made public; which his Majesty was pleased to order accordingly.

The parliament met immediately on the King's accession;* and the members of both Houses took the Oaths, as by law directed.

The King's Speech on Opening the Session.†] November 18. The King, being seated on the throne, adorned with his crown and regal ornaments, and attended by his officers of state; the Lords being in their robes; the Gentleman Usher of the black rod received his Majesty's commands, to let the Commons know, "It is his Majesty's pleasure, they attend him immediately, in this House." Who being come, with their Speaker; his Majesty was pleased to speak as follows:

"My Lords and Gentlemen;

"The just concern which I have felt in my own breast, on the sudden death of the late king my royal grandfather, makes me not doubt but you must all have been deeply affected with so severe a loss: the present critical and difficult conjuncture has made this loss the more sensible, as he was the great support of that system, by which alone the liberties of Europe, and the weight and influence of these kingdoms, can be preserved; and gave life to the measures conducive to those important ends.

"I need not tell you the addition of weight which immediately falls upon me, in being called to the government of this free and powerful country at such a time, and under such circumstances: my consolation is in the uprightness of my own intentions; your faithful and united assistance; and the blessing of heaven upon our joint endeavours, which I devoutly implore.

"*Born and educated in this country, I glory in the name of Briton; and the peculiar happiness of my life will ever consist in promoting the welfare of a people, whose loyalty and warm affection to me, I consider as the greatest and most permanent security of my throne;** and I doubt not but their steadiness in these principles will equal the firmness of my invariable resolution, to adhere to and strengthen this excellent constitution in Church and State, and to maintain the Toleration inviolable. The civil and religious rights of my loving subjects are equally dear to me with the most valuable prerogatives of my crown: and, as the surest foundation of the whole, and the best means to draw down the Divine favour on my reign; it is my fixed purpose to countenance and encourage the practice of true religion and virtue.

"I reflect with pleasure on the successes with which the British arms have been prospered this last summer. The total reduction of the vast province of Canada, with the city of Montreal, is of the most interesting consequence, and must be as heavy a blow to my enemies, as it is a conquest glorious to us; the more glo-

* It met on Sunday in pursuance of a statute of William 3, the substantial parts of which are re-enacted in that of 6th of queen Anne, entitled, "An Act for the security of her majesty's person and government, and of the succession to the crown of Great Britain in the Protestant line."

"Upon the demise of George 2, which happened on Saturday the 25th of October, 1760, both Houses met upon the next day, Sunday the 26th, for the purpose of taking the oaths, though the parliament was at that time separated by a prorogation till the 13th of November. I was then in the service of the House of Commons, as clerk assistant, and remember this latter event. The Speaker and such members as were in town met in what was then called The Court of Wards, but the duke of Rutland, the lord steward, being in the country, and not returning till Wednesday; and there being no deputation existing from his grace to enable any other person to administer the oaths, the Speaker and members met on Sunday, Monday, and Tuesday, and having waited till four o'clock each day, departed." Hatsell's Precedents, vol. 2, p. 108.

† "It was remarked, that there never was in the memory of the oldest persons such a numerous concourse of all ranks on any similar occasion, nor such unanimous testimonies of applause. The public prepossession, increased by the King's affable and gracious demeanour, was carried to the greatest height by the patriotic sentiments contained in this speech." Adolphus.

* It appears from the Hardwicke Papers, that after the draught of this Speech had been settled by the cabinet, the addition of the words printed in Italics were made to it in his Majesty's own hand. This passage became the subject of some animadversion, and was compared by many of the most zealous of the Whig party, to the concluding part of the first Speech of queen Anne after her accession. See vol. 6, p. 3.

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rious because effected almost without effusion of blood, and with that humanity which makes an amiable part of the character of this nation.

"Our advantages gained in the East Indies have been signal; and must greatly diminish the strength and trade of France in those parts, as well as procure the most solid benefits to the commerce and wealth of my subjects.

"In Germany, where the whole French force has been employed, the combined army, under the wise and able conduct of my general prince Ferdinand of Brunswick, has not only stopt their progress, but has gained advantages over them, notwithstanding their boasted superiority, and their not having hitherto come to a general engagement.

"My good brother and ally the king of Prussia, although surrounded with numerous armies of enemies, has, with a magnanimity and perseverance almost beyond example, not only withstood their various attacks, but has obtained very considerable victories over them.

"Of these events I shall say no more at this time, because the nature of the war in those parts has kept the campaign there still depending.

"As my navy is the principal article of our natural strength, it gives me much satisfaction to receive it in such good condition; whilst the fleet of France is weakened to such a degree, that the small remains of it have continued blocked-up by my ships in their own ports: at the same time, the French trade is reduced to the lowest ebb; and, with joy of heart, I see the commerce of my kingdoms, that great source of our riches, and the fixed object of my never-failing care and protection, flourishing to an extent unknown in any former war.

"The valour and intrepidity of my officers and forces both at sea and land have been distinguished so much to the glory of this nation, that I should be wanting in justice to them, if I did not acknowledge it. This is a merit which I shall constantly encourage and reward; and I take this occasion to declare, that the zealous and useful service of the militia, in the present arduous conjuncture, is very acceptable to me.

"In this state I have found things at my accession to the throne of my ancestors: happy in viewing the prosperous part of it; happier still should I have been, had I found my kingdoms, whose true interest I have entirely at heart, in full peace: but, since the ambition, injurious encroachments, and dangerous designs of my enemies, rendered the war both just and necessary; and the generous overture made last winter, towards a congress for a pacification, has not yet produced a suitable return; I am determined, with your cheerful and powerful assistance, to prosecute this war with vigour, in order to that desirable object, a safe and honourable peace: for this purpose, it is absolutely incumbent upon us to be early prepared; and I rely upon your zeal and hearty concurrence to support the king of Prussia and the rest of my allies; and to make ample provision for carrying on the war, as the only means to bring our enemies to equitable terms of accommodation.

"Gentlemen of the House of Commons,

"The greatest uneasiness which I feel at this time is, in considering the uncommon burthens necessarily brought upon my faithful subjects: I desire only such supplies as shall be requisite to prosecute the war with advantage, be adequate to the necessary services, and that they may be provided for in the most sure and effectual manner: you may depend upon the faithful and punctual application of what shall be granted.

"I have ordered the proper estimates for the ensuing year to be laid before you; and also an accompt of the extraordinary expences, which, from the nature of the different and remote operations, have been unavoidably incurred.

"It is with peculiar reluctance that I am obliged, at such a time, to mention any thing which personally regards myself; but, as the grant of the greatest part of the Civil List revenues is now determined, I trust in your duty and affection to me, to make the proper provision for supporting my civil government with honour and dignity: on my part, you may be assured of a regular and becoming economy.

"My Lords, and Gentlemen,

"The eyes of all Europe are upon you. From your resolutions the Protestant interest hopes for protection; as well as all our friends, for the preservation of their independency; and our enemies fear the final disappointment of their ambitious and destructive views. Let these hopes and fears be confirmed and augmented, by the vigour, unanimity, and dispatch, of your proceedings.

"In this expectation I am the more encouraged, by a pleasing circumstance,

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which I look upon as one of the most auspicious omens of my reign. That happy extinction of divisions, and that union and good harmony which continue to prevail amongst my subjects, afford me the most agreeable prospect: the natural disposition and wish of my heart are to cement and promote them: and I promise myself, that nothing will arise on your part, to interrupt or disturb a situation so essential to the true and lasting felicity of this great people."*

Then his Majesty was pleased to retire; and the Commons withdrew.

The Lords' Address of Thanks.] The following Address, which was moved by the earl of Egremont, was agreed to;

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious Speech from the throne.

"On this first occasion of approaching your royal person, permit us to express our unfeigned sorrow for the severe and afflicting loss, which not only this nation, but all Europe has sustained, in the sudden death of our late excellent and most gracious sovereign, your Majesty's illustrious grandfather: the long experience which we had of his royal virtues, the benignity of his government, and his uniform care of our laws and liberties, not interrupted in any one instance during the course of so many years, demand from us the most grateful acknowledgements; and will make his memory as dear to us, as the height and splendour to which he had raised the greatness of these kingdoms will render it glorious to all posterity.

"Such a loss could only be repaired by your Majesty. And, at the same time that we condole with your Majesty on this melancholy event, we beg leave to offer you our most sincere congratulations on your happy accession to the throne: as your Majesty is the rightful and immediate inheritor of his crown, you are so of those virtues with which he adorned it, and which promise a continuation of the same blessings to these kingdoms. It fills our minds with inexpressible joy, to see the pleasing hopes we had conceived from your many princely and amiable endowments, and the early demonstrations of your affection to this country, so fully verified in your first declarations to your parliament.

"We are penetrated with the condescending and endearing manner, in which your Majesty has expressed your satisfaction in having received your birth and education amongst us. What a lustre does it cast upon the name of Briton, when you, Sir, are pleased to esteem it amongst your glories!

"The several paternal assurances, which your Majesty has vouchsafed to give us, speak your resolution to be the common father of your people. No stronger proof can be given of it, than by adopting this undeniable maxim, that their love is the best security of your throne: from this principle will naturally flow the strictest adherence to our excellent constitution in church and state; and the maintenance of that surest cement of the Protestant interest in these kingdoms, the Toleration. And we cannot but applaud your Majesty's wisdom and piety, in making the encouragement of true religion and virtue one of the great foundations of your government.

"We adore the goodness of Providence in the signal successes with which we have been blessed this last summer. The reduction of the extensive province of Canada, with the city of Montreal, is an event of the highest importance in every view: and it is no small addition to the glory resulting from it, to have shewn, that, where the British arms carry conquest, they carry protection.

"We look upon the great advantages gained in the East Indies as highly beneficial to the trade of these kingdoms. And we have the justest sense of the happy consequences derived to the operations of Great Britain in particular, as well as to the common cause in general, from the wise conduct of prince Ferdinand of Brunswick. After what the enemy had before experienced from his abilities, we are not surprized that they should not come to a decisive engagement.

"The magnanimity and perseverance of the king of Prussia will not only be the

* "The sentiments contained in this Speech were no less acceptable to the people at large, than to the members of the two Houses. The King's youth, dignity of deportment, and propriety of enunciation, gave the highest satisfaction, and those who had been accustomed to the speeches from the throne in the former reign, were relieved and gratified by hearing the King's Speech delivered in all the purity of English pronunciation." Adolphus.

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admiration of the present age, but of posterity; and the noble stand made, and the victories obtained, by that prince, must be the strongest motives to the powers engaged against him to concur in the proper measures to restore the tranquillity of Europe.

"The judicious sentiments which your Majesty has declared to us, concerning your royal navy, and the commerce of your subjects, are truly worthy of a British monarch, resolved to improve our natural strength, and most valuable resources. The weakening of the French force by sea to so great a degree, and the low state to which their trade is reduced, we esteem amongst the most solid benefits accruing to this nation from the expensive efforts made this war.

"Your Majesty's regard for public merit shines forth in the generous notice which you are pleased to take of the valour and intrepidity of your officers and forces by sea and land: they are equally conducive to the safety and glory of our country. And your gracious acceptance of the service of the militia, as being useful in the present arduous conjuncture, will be a great encouragement to their zeal.

"At the same time that we thankfully acknowledge your majesty's tender consideration for your people, in your wishes to have found your kingdoms in full peace; we cannot but admire your wisdom, in the comprehensive sense you have expressed of the causes and necessity of the present war. We are convinced, that your Majesty's humane disposition makes you lament the calamities of it; whilst your greatness of mind has determined you to pursue it with vigour, in order to a safe and honourable peace, so desirable not only to your own subjects, but to all Europe. Animated by that duty which we owe your Majesty, and by our zeal for the honour and interest of these kingdoms, we give your Majesty the strongest assurances, that we will cheerfully support you in prosecuting the war, assist the king of Prussia and the rest of your allies, and heartily concur in all such measures as shall be necessary for the defence of your Majesty and your dominions, and for the other national and important ends which you have so fully laid before us.

"The anxiety which your Majesty has so early declared for the uncommon burdens of your people, demands our sincerest thanks. Your tender concern will be an inducement to bear them the more cheerfully; and a pledge to your faithful subjects, that they shall be relieved from them as soon as the public security will in sound policy admit.

"These many and eminent proofs of your Majesty's goodness, and of your fixed attention to our happiness, call upon us for the warmest returns of duty, gratitude, and affection, to your sacred person and government. Our loyalty and fidelity are inviolable; our resolution to maintain your undoubted title to this imperial crown, and the Protestant Succession in your illustrious House, at the hazard of our lives and fortunes, is never to be shaken. Happy shall we be in every instance, whereby we may be able to contribute to the glory, prosperity, and ease, of your reign. Your Majesty's prudence, and the benevolence of your royal heart, have pointed out to us the most agreeable means of promoting these ends, by so strongly inculcating the continuance of that union and good harmony which subsist amongst your people. In doing this, your Majesty has set an inviting and powerful example to all your subjects; which we are determined to follow, by performing every thing on our part to strengthen and improve this happy situation."

The King's Answer.] The King returned the following most gracious Answer:

"My Lords,

"I return you my hearty thanks for this very loyal and dutiful Address. Nothing can be more agreeable to me, than your unanimous concurrence in the several weighty matters which I have laid before you. The assurances you give me of your fidelity and affection to my person and government, and of your zeal for the true interest of your country, and for the support of my allies, afford me the highest satisfaction, and will have the best effect both at home and abroad. It shall be my constant endeavour to answer the expectations which you have formed of my reign."

The Commons' Address of Thanks.] The Commons being returned to their House,

Lord *Royston** rose and said:

* The hon. Philip Yorke, eldest son of the earl of Hardwicke. The above Speech is from the original in his lordship's hand-writing.

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Mr. Speaker; his Majesty's most gracious Speech, which we have just heard, lays before us, from the various and interesting particulars which it contains, as extensive and important matter for deliberation, as ever attended the opening of a session.

Though unequal to the task, I am powerfully called upon by duty and affection to his Majesty, and my country, to submit to the judgment of the House some words, which appear to me to be a suitable return, to the throne, of condolance, congratulation, and assurances of support.

I have experienced the indulgence of the House before, in the same situation, wherein I am now placed, but I never stood in greater need of it than at this moment, because I never felt myself so deeply affected, never engaged in so copious a subject, which it is difficult to treat with the fulness, force, and connection, which every branch of it requires.

The first consideration which rises in my mind, and which indeed presents itself to me, from the very appearance and habit of this great assembly, is, the common loss which we so justly deplore of our late most excellent sovereign; a prince renowned during the course of a long and glorious reign, by the strictest regard to this constitution, the most inviolable adherence to his engagements, the most constant attention to the good of his people, and the most unsullied integrity and uprightness of heart; who died full of years and crowned with laurels, and whose memory will go down to the latest posterity, honored, beloved, and revered.

But, Sir, our gloomy apprehensions after so weighty a subject of national grief, are alleviated and dispelled by the hopes we have the strongest reason to entertain from the rising virtues and accomplishments of the successor, a prince born and educated amongst us, and who has, in terms the most gracious and endearing to his people, condescended to think these circumstances add something to his own lustre.

These hopes, Sir, are also confirmed and strengthened by his Majesty's Declaration in council, and the Speech with which he has been pleased to open his first session of parliament; they contain every assurance and every engagement which can gladden the heart of a faithful subject, and hold out to us the fairest prospect of a reign wholly devoted to the welfare and prosperity of the people; they call upon us to make every retribution of duty and gratitude, and particularly that with which an accession to the throne has of late been attended, the providing in an adequate and liberal manner for the expences of the civil government; a point, Sir, in which the rights and liberties of the subjects who are to be protected, are as nearly concerned as the dignity and splendor of the crown which are to be supported, and upon the general necessity of which, every gentleman must be so far convinced, that it would be trespassing on your patience to enlarge farther upon this topic.

The public situation is so fully and justly described by his Majesty, and is so well known to every gentleman here, that I despair of adding any force to what the words of the Speech itself, and the notoriety of the facts must already have imprinted on your minds.

Great and glorious, Sir, as the events of the war have been, in which every scene of it has been filled with action, and most of them distinguished by the most triumphant success, yet the obstinacy of our enemies in declining to listen to the offer of a congress, or to propose terms of accommodation, render the continuance of it with vigour in every part unavoidable. If we take off that pressure, which now lies hard on our enemies, by the variety and extent of our operations, we give them opportunities of recovering from the blows they have received, and perhaps of gaining the attack upon us in some weak and unguarded quarter.

The progress and happy achievements of his Majesty's arms last summer, invite us to repeat the same congratulations with which we approached the throne at the beginning of last session: the complete reduction of Canada, attended with circumstances which do equal honor to the military skill, and the humanity of the general who commanded; the valuable acquisitions gained, and the signal victory obtained in the East Indies over the best officers which France had to boast of in that part of the world; the heroic and successful stand, which our firm, intrepid, and great ally the king of Prussia, has made against his numerous and inveterate enemies; the ever-memorable proofs of British valour in Germany, under the command of a prince of his Majesty's House, who joins to the coolness and foresight of Turenne, the ardour and vivacity of Condé, assisted by a nephew possessed of the

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same shining talents; these are all topics which barely to recall to your minds is to celebrate.—And here, Sir, I cannot help making one reflection in justice to administration, that no part of the war has been carried on at the expence of the other: that our own commercial and territorial quarrel with France, has not been neglected to gratify any foreign interests the most intimately connected with our own, nor have our allies been selfishly sacrificed to the pursuit of our national cause; but every measure has been rendered subservient to the promoting of one common system.

But, Sir, in the midst of exultation for advantages which have been greatly obtained, and with the prospect of more before my eyes, which under the blessing of Providence may be expected from a continuance of the same wise and faithful counsels, I am led by a paragraph in the Speech, in which his Majesty with a true paternal tenderness for his people takes notice of "the uncommon burdens necessarily brought upon his faithful subjects," to express my most ardent wishes that the happy period to those burdens may not be too long before it comes.

The most successful war is attended with evils and calamities enough to be severely felt, and true policy as well as humanity dictate to us, not to pursue even the justest quarrel longer than necessity requires; the first hour that such a peace can be obtained, as shall fully provide for the security of our allies, and be adequate to the great national interests, which occasioned this war, I shall think one of the happiest æras that this country ever saw; and I will flatter myself, that as we ought not to sacrifice any weighty public concern to the name of peace, so neither shall we permit the terms to be regulated by the caprice of the ignorant and presumptuous, or the interested clamours of the brokers of war, the 'multi quibus utile bellum.'

But, Sir, however near, or however distant the return of public tranquillity may be, we may be sure of one thing, that nothing can bring us with safety and credit to the end of this long and expensive war, but the same spirit of union and harmony at home which has hitherto prevailed. Wonderful will it appear to posterity, as it has done to the present age, and greatly will it redound to the national honor, that a country so oft torn to pieces by divisions, so often disagreeing upon the grounds of public councils, upon the merit of particular ministers or particular measures, should in this cause and in this quarrel have acted like one man; that all orders and all denominations have cheerfully concurred in the immense supplies which have been requisite, and in the most spirited efforts to render those supplies effectual; that their persons as well as purses have been devoted to the public service; that gentlemen of the first families and estates, not bred up to the profession of arms, have at this arduous juncture submitted with zeal and alacrity to the fatigues of military discipline, and that no other contention has been heard of, than of who should stand the forwardest to deserve well of his country.

This desirable complexion of the times his Majesty has, by every circumstance, that has passed since his happy accession, done his utmost to promote and maintain. It must be our part to answer his royal exhortations and the public wishes, by a corresponding degree of unanimity, dispatch, and vigour in our proceedings.

The noble lord concluded with moving the following Address, which was agreed to *nem. con.*

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, approach your royal presence to express the deepest sense of the great and severe loss which your Majesty and these kingdoms have sustained, by the death of your Majesty's royal grandfather, our late most excellent sovereign, the memory of whose just and prosperous reign will be held in reverence by latest posterity.

"We beg leave to congratulate your Majesty on your happy accession to the throne, the only consideration that can alleviate our grief for such a loss; the knowledge of your Majesty's royal virtues, wisdom, and firmness, opens to your faithful subjects the fairest prospect for their future happiness at home, and for the continuance of that weight and influence of your Majesty's crown abroad, so essentially necessary in this arduous and critical conjuncture, for the preservation of that system, upon which the liberties of Europe depend.

"We return your Majesty our humble thanks for your most gracious Speech from the throne, and acknowledge, with the liveliest sentiments of duty, gratitude, and exultation of mind, those most affecting

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and animating words of our most gracious sovereign, that, born and educated in this country, he glories in the name of Briton; and we offer to your Majesty the full tribute of our hearts for the warm expressions of your truly royal and tender affection towards your people. We venerate and confide in those sacred assurances of your Majesty's firm and invariable resolution, to adhere to and strengthen this excellent constitution, in Church and State, to maintain the Toleration inviolate, and to protect your faithful subjects in that greatest of human blessings, the secure enjoyment of their religious and civil rights.

"Permit us to congratulate your Majesty on the various successes which, under the protection of God, have attended the British arms, during the last summer, particularly in the reduction of the city of Montreal, and the entire province of Canada, a conquest equally important and glorious, achieved with intrepidity, and closed with humanity, the genuine attributes of that British spirit, which, under the benign auspices of your Majesty, will, we trust, continue, by the Divine assistance, to give additional lustre to the arms of Great Britain.

"This valuable and extensive acquisition, joined to the signal advantages gained in the East Indies; the flourishing state of our commerce; the respectable condition of your Majesty's navy, by which the remains of the enemy's fleet continue blocked up in their harbours, whilst their trade is almost annihilated; are considerations which fill our hearts with the most pleasing hopes, that your Majesty will be thereby enabled to prosecute this just and necessary war, to that great and desirable object of establishing, in conjunction with your allies, a safe, honourable, and lasting peace.

"We see, with the greatest pleasure, that the progress of the French armies in Germany, notwithstanding their superiority of numbers, has been stopped, and, to the honour of your Majesty's arms, their attempts hitherto baffled by the wise and able conduct of his serene highness prince Ferdinand of Brunswick.

"When we consider the stupendous efforts, made in every campaign, by your Majesty's great ally, the king of Prussia, the defeat of the Austrians in Silesia, and that recent and glorious victory obtained over the army commanded by marshal Daun, we cannot sufficiently admire the invincible constancy of mind, and inexhaustible resources of genius, displayed by that magnanimous monarch, to whom the most dangerous and difficult situations have only administered fresh occasions for glory.

"Our most dutiful acknowledgments are due to your Majesty, for the mention which you have so graciously made of the distinguished valour and intrepidity of your officers and forces at sea and land, and for the declaration of your Majesty's constant resolution to encourage and reward such merit: and we return our most humble thanks to your Majesty, for your favourable acceptance of the zealous and useful service of the militia in the present arduous conjuncture.

"We assure your Majesty, that your faithful Commons, thoroughly sensible of this important crisis, and desirous, with the Divine assistance, to render your Majesty's reign successful and glorious in war, happy and honourable in peace (the natural return of a grateful people to a gracious and affectionate sovereign) will concur in such measures as shall be requisite for the vigorous and effectual prosecution of the war; and that we will cheerfully and speedily grant such supplies as shall be found necessary for that purpose, and for the support of the king of Prussia, and the rest of your Majesty's allies; firmly relying on your Majesty's wisdom, goodness, and justice, that they will be applied in such a manner as will most effectually answer the ends for which they are granted, and with the utmost œconomy that the nature of such great and extensive operations will allow; and that we will make such an adequate provision for your Majesty's civil government, as may be sufficient to maintain the honour and dignity of your crown with all proper and becoming lustre.

"Your Majesty's faithful Commons approach your royal person, with hearts penetrated by the warmest and liveliest sense of your unbounded tenderness and concern for the welfare of your people, and rejoicing at the high satisfaction your Majesty takes in the union which so universally prevails throughout your kingdoms; a deep sense of that national strength and prosperity visibly derived from this salutary source, and, above all, your Majesty's approbation of that happy union, and the natural disposition and wish of your royal heart to cement and promote it, are the strongest incentives to concord,

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and the surest pledge of its duration; the fixed resolution which your Majesty has declared, to countenance and encourage the practice of true religion and virtue, will, we doubt not, prove the best means of drawing down the favour of God upon a dutiful and united nation; and we shall never cease devoutly to offer up our ardent vows to the Divine Providence, that, as a recompence for these royal virtues, your Majesty may reign in the hearts of a free and happy people; and that they, excited by your Majesty's benevolent care to discharge your royal function, and animated by gratitude for the enjoyment of so many blessings, may make the due return by a constant obedience to your laws, and by the most steady attachment and loyalty to your person and government."

The King's Answer.] To this Address his Majesty returned the following most gracious Answer:

"Gentlemen,

"I return you my cordial thanks for this most dutiful and affectionate Address, and for your warm expressions of fidelity to my person, and attention to the honour and dignity of my crown.

"The unanimous assurances that you will make effectual and speedy provision for the vigorous prosecution of the war, and for the support of my allies, yield me the truest satisfaction, and will, I trust, prove the happy means of reducing the enemy to the terms of a just and honourable peace. With such zeal and harmony among my people, I have only to implore the continuance of the Divine blessings on their generous efforts, and on my ardent endeavours for the permanent felicity of my loving subjects."

Resolutions of the Commons respecting the Hereditary Revenues of the Crown.] November 25. The Chancellor of the Exchequer, by his Majesty's command, acquainted the House, "That his Majesty, ever desirous of giving the most substantial proofs of his tender regard to the welfare of his people, is pleased to signify his consent, that, whenever this House shall enter upon the consideration of making provision for the support of his houshold, and the honour and dignity of his crown, such disposition may be made of his Majesty's interest in the hereditary revenues of the crown, as may best conduce to the utility and satisfaction of the public." In consequence of which, the House resolved *nem. con.*

1. "That, for the support of his Majesty's houshold, and of the honour and dignity of the crown, there be granted to his Majesty, during his life, such a revenue, as, together with the annuities payable by virtue of any acts of parliament, made in the reign of his late majesty king George the second, of blessed memory, out of the hereditary civil list revenues, shall amount to the clear yearly sum of 800,000*l.* to commence from the demise of his said late majesty.

2. "That the said revenue, for the support of his Majesty's houshold, and of the honour and dignity of the crown, be charged upon, and made payable out of, the aggregate fund.

3. "That the several revenues which were payable to his said late majesty, during his life, and had continuance till the time of his demise, other than such payments as were charged upon and issuing out of the aggregate fund, be granted and continued from the time of the said demise to his present Majesty, during his life; and the produce of the said revenues, together with the produce of the hereditary revenues, which were settled or appointed to be, towards the support of the houshold of his said late majesty, and of the honour and dignity of the crown be, during the said term, carried to, and made part of, the aggregate fund."

November 27. It was further resolved, "That an humble Address be presented to his Majesty, that he would be graciously pleased to order an account to be laid before the House, of the clear produce, in every year, of the several branches of the revenue, appropriated for the payment of the Civil List, during his late majesty's life; and of the several sums granted to make good deficiencies:" which was accordingly made up, and delivered into parliament; the whole amount of which, for 33 years, was 26,182,981*l.*

Convention with the King of Prussia.] December 17. Mr. Secretary Pitt presented to the House, by his Majesty's command, the following copy of a Convention between his Majesty and the king of Prussia.

CONVENTION between his Majesty and the King of Prussia, concluded and signed at London, the 12th of December 1760.

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" Be it known to all whom it concerns, or may concern, That the burthensome war wherein his Prussian majesty is engaged putting him under the necessity of making new efforts for his defence against the great number of enemies by which his dominions are attacked; and being therefore obliged to enter into a new concert with his Britannic majesty, in order to provide reciprocally and jointly with him for their common defence and safety; and his majesty the king of Great Britain, having made known, at the same time, the desire he had to strengthen the bonds of friendship which subsist between the two courts, and to come to a new agreement on this occasion; and, for this end, by an express convention, relating to the succours by which he may give to his Prussian majesty most expeditious and most efficacious assistance, their said majesties have therefore, for this purpose, named and authorized their respective ministers; to wit, in the name and on the part of his Britannic majesty, his privy counsellors Robert lord Henley, baron of Grainge, keeper of his great seal of Great Britain, John earl Granville, president of his council, Thomas Holles duke of Newcastle, first lord commissioner of his treasury, Robert earl of Holdernesse, one of his principal secretaries of state, Philip earl of Hardwicke, and William Pitt, another of his principal secretaries of state; and, in the name and on the part of his Prussian majesty, the sieurs Dodo Henry, baron of Knyphausen, his privy counsellor of embassy and minister plenipotentiary at the court of his Britannic majesty, and Lewis Michell, his minister at the said court; who, after the exchange of their respective full powers, have agreed upon the following Articles:

I. " It is agreed that all the preceding treaties, which subsist between the two courts, of whatever date or nature they may be, and particularly that of Westminster, of the 16th of January 1756, as well as the Convention of the 11th of April 1758, and that of the 7th of December of the same year, as also the Convention of the 9th of November of the last year, shall be deemed to be renewed and confirmed by the present Convention in all their points, articles, and clauses, and shall be of the same force as if they were inserted herein word for word.

II. " His majesty the king of Great Britain engages to cause to be paid, in the city of London, into the hands of the person or persons who shall be authorized for that purpose by his majesty the king of Prussia, the sum of four millions of German crowns, amounting to 670,000*l.* sterling, which entire sum shall be paid at once, immediately after the exchange of the ratifications, upon the requisition of his Prussian majesty.

III. " His majesty the king of Prussia engages, on his part, to employ the said sum in keeping up and augmenting his forces, which shall act in the most advantageous manner for the common cause, and for the end proposed by their aforesaid majesties, of reciprocal defence and mutual security.

IV. " The high contracting parties moreover engage; viz. on the one part, his Britannic majesty, both as king and as elector, and, on the other part, his Prussian majesty, not to conclude any treaty of peace, truce, or neutrality, or any other Convention or Agreement whatsoever, with the powers who have taken part in the present war, but in concert, and by mutual consent, and expressly comprehending each other therein.

V. " This Convention shall be ratified, and the ratifications thereof shall be exchanged on both sides within the term of six weeks, to be reckoned from the date of the signing of the present Convention, or sooner if possible. In witness whereof, we the under-written ministers of his majesty the king of Great Britain, and of his majesty the king of Prussia, by virtue of our full powers, have signed the present Convention, and have set the seals of our arms thereto. Done at London, the 12th day of December 1760.

(L. S.) Henley, C. S.
(L. S.) Holles Newcastle,
(L. S.) Hardwicke,
(L. S.) Granville, P.
(L. S.) Holdernesse,
(L. S.) W. Pitt.

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1761.

Supplies granted for the Year 1761.*] The following Supplies were granted during this session for the service of the year 1761.

	£. s. d.
NOVEMBER 27.	
That, for the support of his Majesty's houshold, and of the honour and dignity of the crown, there be granted to his Majesty, during his life, such a revenue as, together with the annuities payable by virtue of any acts of parliament, made in the reign of his late majesty out of the hereditary civil list revenues, shall amount to the clear yearly sum of 800,000*l.* to commence from the demise of his said late majesty	800,000 0 0
That the said revenue for the support of his Majesty's houshold, and of the honour and dignity of the crown, be charged upon, and made payable out of, the aggregate fund.	
That the several revenues, which were payable to his said late majesty, during his life, and had continuance to the time of his demise (other than such payments as were charged upon, and issuing out of, the aggregate fund) be granted and continued, from the time of the said demise, to his present Majesty, during his life; and the produce of the said revenues, together with the produce of the hereditary revenues, which were settled, or appointed to be, towards the support of the houshold of his said late majesty, and of the honour and dignity of the crown, be, during the said term, carried to, and made part of, the aggregate fund.	
That 70,000 men be employed for the sea service, for 1761, including 18,355 marines.	
That a sum, not exceeding 4*l.* per man, per month, be allowed for maintaining them for 13 months, including the ordnance for sea service	3,640,000 0 0
NOVEMBER 29.	
That a number of land forces, including those in Germany, and 4,008 invalids, amounting to 64,971 effective men, commission and non-commission officers included, be employed for the service of 1761.	
For the charge of the said number of men, for guards and garrisons, and other his Majesty's land forces, in Great Britain, Guernsey, and Jersey, for 1761, there be granted a sum, not exceeding	1,576,985 10 7
For maintaining his Majesty's forces and garrisons, in the plantations, Gibraltar, Guadaloupe, Africa, and the East Indies; and for provisions for the garrisons in Nova Scotia, Newfoundland, Gibraltar, Providence, Quebec, Guadaloupe, Senegal, and Goree	843,756 12 9
For defraying the charge of three regiments of foot, on the Irish establishment, serving in North America	22,179 0 0
For the pay of the general, and staff-officers, and officers of the hospitals for his Majesty's land forces	72,896 14 2

* "The resources of the country which his Majesty was now called to govern, were increased beyond all former computation. War, which is so pernicious an obstacle to other mercantile nations, had opened new channels to the traders of Great Britain. The superiority of her marine force had crushed the navigation of France, her great rival in commerce. She now supplied, on her own terms, all those foreign markets, at which, in time of peace, she was undersold by that dangerous competitor. Revenue and national credit were proportionably great; the immense sums required for the manifold services of the war, were forthcoming on demand. The sum total granted for that year amounted to nearly 16 millions sterling. The British army in various parts of the world consisted of 97 regiments of foot, and 31 of horse and dragoons, amounting to about 110,000; the German auxiliaries, in British pay, were 60,000; the ships of the line, including fifties, were 121; the frigates and sloops proportionably numerous; and the seamen in actual service amounted to 70,000. The ordnance establishment was in proportion to those of the army and navy. This force was commanded by officers selected by the penetration of the minister; who, in his choice of agents, considered merely the object of the respective trusts; and disregarding family connection, or any other adventitious ground of preference, appointed instruments the most fitted for effecting the destined purpose. The recent establishment of a national militia, answering most of the ends of internal defence, permitted the executive power to employ the regular troops, if necessary, out of the kingdom. Notwithstanding the expensive war, the means of internal security, as well as of influence and dignity at home and abroad, were under the command of the executive government, which employed so very energetic a minister as Mr. Secretary Pitt." Bisset's George the Third.

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For defraying the charge of the embodied militia, of the several counties in South Britain, and of the fensible men of Argyleshire, and of lord Sutherland's battalion of Highlanders, in North Britain, for 122 days, from 25 Dec. 1760, to 25 April 1761	140,358	19	4
Upon account, for defraying the charge of clothing for the embodied militia, for 1761	56,568	15	2
	2,712,745	12	0

DECEMBER 2.

For the charge of the office of ordnance, for land service, for 1761	302,267	9	2
For defraying the extraordinary expence of services performed, by the office of ordnance, for land service, and not provided for by parliament, in 1760	426,449	4	9
	728,716	13	11

DECEMBER 9.

For the ordinary of the navy, including half-pay to sea officers, for 1761	258,624	7	10
For completing the works of the hospital for sick and wounded seamen, at Haslar, near Gosport	7,130	0	0
Towards carrying on the works of the hospital for sick and wounded seamen, building near Plymouth, for 1761	10,000	0	0
For the charge of transport service, between the 1st of October, 1759, and the 30th of September, 1760, including the expence of victualling his Majesty's land forces within the said time	479,035	19	2
Towards paying off and discharging the debt of the navy	1,000,000	0	0
Towards the buildings, rebuildings, and repairs, of his Majesty's ships, for 1761	200,000	0	0
	1,954,790	7	0

DECEMBER 11.

To enable his Majesty to discharge the like sum, raised in pursuance of an act made in the last session of parliament, and charged upon the first aids, or supplies, to be granted in this session	1,000,000	0	0
To be applied towards the improving, widening, and enlarging, the passage over and through London bridge	15,000	0	0
	1,015,000	0	0

DECEMBER 15.

To enable his Majesty to pay off, and discharge, such exchequer bills, as were made out before the 11th of Dec. 1760, and charged upon the first aids, or supplies to be granted, in this session	1,232,000	0	0

DECEMBER 16.

For defraying the charge of 39,773 men of the troops of Hanover, Wolfenbuttle, Saxe-Gotha, and count of Buckeburg, together with that of general and staff-officers, actually employed against the common enemy, in concert with the king of Prussia, from 25 Dec. 1760, to 24 Dec. 1761, to be issued in advance every two months, in like manner as the pay of the Hessian forces, now in the service of Great Britain; the said body of troops to be mustered by an English commissary, and the effective state thereof to be ascertained by the signature of the commander in chief of the said forces	463,874	19	1½
For defraying the charge of 2,120 horse, and 9,900 foot, together with the general and staff-officers, the officers of the hospital, and officers and others, belonging to the train of artillery, the troops of the landgrave of Hesse-Cassel, in the pay of Great Britain, for 365 days, from 25 Dec. 1760, to 24 Dec. 1761, both days inclusive; together with the subsidy for the said time, pursuant to treaty	268,360	8	8
For defraying the charge of an additional corps of 1,576 horse, and 8,808 foot, together with the general and staff-officers, the officers of the hospital, and officers and others belonging to the train of artillery, the troops of the landgrave of Hesse-Cassel, in the pay of Great Britain, for 365 days, from 1 Jan. 1761, to 31 Dec. following, pursuant to treaty	147,071	5	2
For defraying the charge of 1,205 cavalry, and 2,208 infantry, the troops of the reigning duke of Brunswick, in the pay of Great Britain, for 365 days, from 25 Dec. 1760, to 24 Dec. 1761, together with the subsidy for the said time, pursuant to treaty	57,798	16	0
To make good a deficiency in the sum, voted last session, for the charge of the troops of Brunswick, to 24 Dec. 1760	2,569	10	0

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For defraying the charge of five battalions, serving with his Majesty's army in Germany, each battalion consisting of one troop of 101 men, and four companies of foot, of 125 men in each company, with a corps of artillery, for 365 days, from 25 Dec. 1760, to 24 Dec. 1761	25,504	6	8
For defraying the extraordinary expences of his Majesty's land-forces and other services, incurred to the 19th Nov. 1760, and not provided for by parliament	1,167,903	12	6
Upon account, towards defraying the charges of forage, bread, bread-waggons, train of artillery, and of provisions, wood, straw, &c. and other extraordinary expences and contingencies of his Majesty's combined army, under the command of prince Ferdinand	1,000,000	0	0
	3,133,082	18	1½

DECEMBER 23.

To enable his Majesty to make good his engagements with the king of Prussia, pursuant to a convention, concluded 12th Dec. 1760	670,000	0	0
Total of the Supplies granted before Christmas	15,886,335	11	0½

JANUARY 15, 1761.

To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1760, of the several duties on malt, granted by an act 33 Geo. 2, to answer annuities, after the rate of 4*l.* per cent. charged thereupon	49,424	0	0
To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1760, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund, by an act 31 Geo. 2, for paying annuities, at the Bank of England, in respect of five millions, borrowed towards the supply for 1758	72,011	6	1½
To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th Jan. 1760, of the subsidy of poundage upon certain goods and merchandizes imported, and an additional inland duty on coffee and chocolate, to answer annuities, after the rate of 3*l.* per cent. charged thereupon, by an act of 32 Geo. 2	5,969	12	9½
	127,404	19	8½

JANUARY 20.

To enable his Majesty to give a proper compensation to the respective provinces in North America, for the expences incurred by them, in the levying, clothing, and pay, of the troops raised by the same, according as the active vigour, and strenuous efforts, of the respective provinces, shall be thought, by his Majesty, to merit	200,000	0	0
Upon account, to be paid to the East India company, towards enabling them to defray the expence of a military force in their settlements, to be maintained by them, in lieu of colonel Adlercron's battalion, withdrawn from thence, and now in Ireland	20,000	0	0
Upon account of the reduced officers of his Majesty's land-forces and marines, for 1761	34,854	9	8
For allowances to the several officers, and private gentlemen, of the two troops of horse-guards, and regiment of horse, reduced, and to the superannuated gentlemen of the four troops of horse-guards, for 1761	2,973	19	2
For paying pensions to the widows of such reduced officers and marines, as died upon the establishment of half pay, in Great Britain, and who were married to them before the 25th Dec. 1716, for 1761	1,922	0	0
Upon account, for out-pensioners of Chelsea hospital, for 1761	18,360	2	11
Do. for supporting and maintaining the settlement of Nova Scotia, for 1761	10,595	12	9
Upon account, for the civil establishment of Georgia, and other incident expences attending the same, from 24th June, 1760, to 24th June, 1761	4,057	10	0
	292,763	14	0

JANUARY 22.

For defraying the extraordinary expences of his Majesty's land-forces, and other services incurred, from 20th Nov. 1760, to 24th Dec. following, and not provided for by parliament	993,844	4	4½

JANUARY 29.

To enable his Majesty to pay off and discharge, such exchequer bills, as have been made out since the 10th Dec. 1760, by virtue of an act of last

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session, for paying off the navy-debt (before mentioned) and charged upon the first aids or supplies, to be granted in this session	268,000	0	0
For defraying the charges of his Majesty's mints, and the coinage of gold and silver monies, and other incident charges of the mints, and thereby to encourage the bringing in of gold and silver to be coined, a revenue, not exceeding 15,000*l.* per annum, be made up, settled, and secured, for 7 years, from 1st March, 1761, and until the end of the first session of parliament then next ensuing	15,000	0	0
	283,000	0	0

FEBRUARY 9.

Upon account, towards enabling the governors and guardians of the Foundling hospital, to maintain and educate such children as were received into the said hospital, on or before the 25th March, 1760, from 31st Dec. 1760, exclusive, to 31st Dec. 1761, inclusive; and that the said sum be issued and paid, without fee or reward, or any deduction whatsoever....	44,197	10	0
To be employed in maintaining and supporting the fort of Annamaboo, and the other British forts and settlements upon the coast of Africa	13,000	0	0
	57,197	10	0

FEBRUARY 17.

For discharging the extraordinary expences, not provided for by parliament, of bread, forage, and firewood, furnished by the chancery of war, at Hanover, in 1757 and 1758, to the Hessian and Prussian forces, acting in the army in Germany	336,479	14	1½

FEBRUARY 18.

For the difference between the pay of major-general Anstruther's regiment of foot, on the British establishment, and the sum paid by Ireland for the said regiment, from 25th Dec. 1760, to 24th Dec. 1761, and of several augmentations to his Majesty's forces, since the estimates for 1761 were presented to parliament, from the respective times of the commencement of their establishment, to the 24th Dec. 1761, inclusive	22,361	11	8
In addition to the sum of 140,358*l.* 19*s.* 4*d.* already granted, for defraying the charge of the embodied militia of the several counties in South Britain, &c. from 25th Dec. 1760, to 24th Dec. 1761	298,668	9	10
	321,030	1	6

FEBRUARY 19.

Upon account, for paying and discharging the debts and wadsett sums, with the necessary expences attending the payment of the same, forfeited to the crown, by the attainder of Simon, lord Lovat, or so much of the said debts and sums, as shall be remaining unsatisfied, according to the several decrees in that behalf, respectively made by the lords of session, in Scotland, pursuant to an act of 25 Geo. 2	38,553	12	1½

FEBRUARY 23.

To make good the deficiency of the grants, for the service of 1760.....	89,510	12	11
Upon account, towards defraying the charge of the pay of the militia of England, when unembodied, and of the clothing of the part of the said militia, now unembodied, for one year, beginning 25th March, 1761	70,000	0	0
	159,510	12	11

MARCH 7.

Upon account, to enable his Majesty to defray any extraordinary expences of the war, incurred, or to be incurred, for the service of 1761; and to take all such measures as may be necessary to disappoint, or defeat, any enterprizes or designs of the enemies, and as the exigency of affairs may require	1,000,000	0	0
On account, towards assisting his Majesty to grant a reasonable succour, in money, to the landgrave of Hesse Cassel, pursuant to treaty.....	120,000	0	0
	1,120,000	0	0

Total of the Supplies granted after Christmas	3,729,784	8	9½
before Christmas	15,886,335	11	0½
Total of the Supplies granted this session..... £.	19,616,119	19	9½

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*The King's Speech respecting the Independence of the Judges.**] March 3, 1761. The King came to the House of Peers, and, after giving the royal assent to several Bills, made the following Speech to both Houses:

"My Lords and Gentlemen;

"Upon granting new commissions to the Judges, the present state of their offices fell naturally under consideration.

"In consequence of the act passed in the reign of my late glorious predecessor king William the third, for settling the succession to the crown in my family, their commissions have been made during their good behaviour; but notwithstanding that wise provision, their offices have determined upon the demise of the crown, or at the expiration of six months afterwards, in every instance of that nature which has happened.

"I look upon the independency and uprightness of the Judges of the land as essential to the impartial administration of justice, as one of the best securities to the rights and liberties of my loving subjects, and as most conducive to the honour of the crown: and I come now to recommend this interesting object to the consideration of parliament, in order that such farther provision may be made, for securing the Judges in the enjoyment of their offices during their good behaviour, notwithstanding any such demise, as shall be most expedient.

"Gentlemen of the House of Commons;

"I must desire of you in particular, that I may be enabled to grant and establish upon the Judges such salaries as I shall think proper, so as to be absolutely secured to them during the continuance of their commissions.

"My Lords and Gentlemen;

"I have nothing to add, but my thanks for the great unanimity and application with which you have hitherto carried on the public business; and to desire you to proceed with the same good disposition, and with such dispatch, that this session may be soon brought to a happy conclusion."

The Lords' Address thereon.] His Majesty having retired, the earl of Hardwicke moved the following Address,* which was agreed to:

* "On granting new commissions to the judges, the tenure of their office fell under consideration. The King, anxious to insure their independence and uprightness, recommended, in a speech from the throne, that provision should be made for securing the enjoyment of their offices, during their good behaviour, notwithstanding the demise of the crown; and requested, that he might be enabled to grant proper salaries to be absolutely secured to them during the continuance of their commissions. This wise and patriotic declaration was received with merited attention; and an act passed, fully providing for the important object of his Majesty's recommendation." Adolphus.

* The following NOTES of the Earl of Hardwicke's Speech, on moving this Address, are copied from the Original, in the noble and learned lord's hand-writing.

After a great part, &c. spent in the administration of justice, &c.

Great comfort, &c.

When the only opening—the single chasm left for influence, &c.

Cannot begin upon this subject without taking notice, that from the day we lost my late royal and gracious master, &c.

A prince, whom to name is sufficiently to praise; upon whom I will attempt no panegyric, after that only true panegyric of kings, the universal voice of his people,—

I say, from that day, *ille dies*, &c. but four months have passed, and in that short space of time, his majesty has done two public acts of such extraordinary goodness and confidence towards his people, that they are sufficient to mark the annals of a long reign with lustre and reputation:

1. The whole Hereditary Revenues of the Crown.

2. This now brought before your lordships of the tenure of the Judges in their Offices.

(Follow the course of the Speech.)

His Majesty is pleased to acquaint us that he had granted new commissions to the Judges, that is, to the Judges in being, &c.

Shewn several great qualities—

His *discernment* and knowledge of men—could not have found men of greater ability or integrity than the present set of Judges.

His *disinterestedness*, not to take an advantage which the law gave him to gratify any predilection.

His *equity* towards his successor—not to make use himself of a prerogative, as to which he designed to shut the door against those who should come after him.

His Majesty next takes notice of the Succession Act, of the 12th and 13th of William the Third: "That after the said limitation shall take effect, Judges commissions shall be made 'quamdiù se bene gesserint,' and their salaries ascertained and established, but upon the Address of both Houses of Parliament, it may be lawful to remove them."

The consequences of this Act his Majesty has stated very truly both *in fact* and *in law*.

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"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, return your Majesty our humble thanks, for your most gracious Speech from the throne.

"The tender concern which your Majesty is pleased to express for the rights and liberties of your people, and for the impartial administration of justice, fills our minds with the sincerest gratitude. We look upon your wise and just sentiments,

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From the Revolution, that great æra of liberty, the Judges' Commissions had, by the justice of the crown, without any obligation, been made during good behaviour. In 1700, the parliament took the matter up as they found it, and bound the crown to do that, which our great deliverer had done of his own motion.

Upon the death of king William this great point came in question.

By the opinion of Holt, chief justice, and of all the Judges then in town, who met for that purpose, it was held, that their patents, though made 'quamdiù se bene gesserint,' determined by the death of the king.

Two Judges were then left out, the rest renewed.

Much discourse and speculation in the public about this decision, and the practice consequent upon it.

Not necessary now to give an opinion; I will not do it; but I will say that great part of the doubt in the world has proceeded from not knowing the strong grounds and reasons, which that great man went upon.

I have a copy of his argument—a very learned and able one. He first goes through the various methods of constituting the Judges, historically and from records.

Shews they have frequently been made to hold 'quamdiù se bene gesserint.'

The Barons of the Exchequer, even down from the time of Henry the 6th to the Restoration, and many others at different times.

Then he shews from records—

1. That, in fact, upon the demise of the crown, they have, though under commissions 'quamdiù se bene gesserint,' in all times been held to be determined by law, and new commissions granted to the same persons, or new Judges appointed in their room. This practice uniform.

2. Next he proves it from reasons of law.

   1. That all those constitutions have relation to *the person* of the king granting them:

   The grantee is appointed *Justiciarium nostram;* not 'hæredum et successorum nostrorum.'—'Cap. Just. nostrorum, ad placita *nobis* tenenda.'

I know this has been slighted as a superficial reason, but let it be examined with the authorities and reasons of the common law in other cases.

At common law, before the statute 1 Ed. 6, c. 7. was made, all actions, suits, and process commenced in one king's reign, even at the suit of private parties, were discontinued, that is, were out of court, by the death of that king, and could not be proceeded upon in the reign of the successor, without a writ of recontinuance or resummons.

What was the reason of that?—because it was commenced in one king's court, and could not be carried on in another's, without his proper authority.

The very writs of Re-summons and Re-attachment import and speak this.

The King recites that the action was commenced 'in curiâ domini Henrici nuper Regis 'Angl.' and commands the parties to appear again 'in curiâ nostrâ, &c. coram Justic. nos-'tris apud Westm. &c.' And so uniformly in every instance, till this great inconvenience and delay was cured by the stat. 1 Ed. 6.—an enacting law.

At this day, if a writ of error be brought, in one king's reign, of a judgment given in the reign of his predecessor, that writ is made returnable 'in curiâ domini Regis nunc,' but recites the judgment to be 'in curiâ domini nuper Regis.'

He argues farther from judgments given upon grants, to lords of liberties, &c. to corporations, of conusance of pleas; which is like the power of lords of regalities in Scotland, to *repledge* from the king's courts.

Shews that it had been solemnly adjudged that, if the grant by one king was to have conusance of pleas, *extrà curias nostras*, omitting the words *hæredum et successorum nostrorum*, the grantees could have or demand conusance or jurisdiction of those causes only during that king's life, because the description is confined to the courts of that king who makes the grant, and can in law extend no further.

Upon the demise of queen Anne the same point came in question. At that time, it was found that the act had made no alteration—had only used words, of which the law had settled the construction, &c.

Three Judges left out, and all the rest had new commissions.

Upon the demise of George the First the like happened, but only one left out.

This was the state of the law upon this point in which his present Majesty found it: and I own a happy state it was, compared with the situation in the three reigns before the Revolution—all *durante bene placito*, except lord Clarendon's time.

In what a condition the subjects then were, the histories, the trials, the judgments of those times show.

The virtue and firmness of men were tempted above what they were able—The cases of Ship-Money, of Loans, of the Dispensing Power, want no aggravation or explanation.

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concerning the independency and uprightness of the Judges of the land, as the strongest proof of what your Majesty has formerly declared to us, in words the most affectionate that ever came from the throne, that the civil and religious rights of your subjects are equally dear to you with the most valuable of your royal prerogatives. At the same time, nothing can be a nobler instance of your true greatness of mind, than to esteem these principles, as they truly are, the most conducive to the honour of the crown.

"We will not fail to take into our consideration this important object of the continuance of the Judges, notwithstanding any demise of the crown; and to do every thing on our part to make your Majesty's public-spirited intentions effectual: happy in having an opportunity to do this by your Majesty's free and voluntary recommendation; and forming the most ardent vows, that the event wherein the effect of such a provision will be experienced may, by the goodness of Providence, to these kingdoms, be removed for a long course of years.

"Permit us, on this occasion, to renew to your Majesty the most unfeigned assurances of our inviolable duty and affection; and to express our thankful acknowledgments for your gracious approbation of our proceedings hitherto: nothing can equal our zeal for your Majesty's support; nor shall any thing be wanting that depends upon us to bring this session to a speedy and happy conclusion, answerable to your Majesty's just expectations."

The Commons' Address of Thanks thereon.] The Commons being returned to their House, the following Resolutions were agreed to *nem. con.*

"That an humble Address be presented to his Majesty, to return his Majesty the most humble thanks of this House, for his most gracious Speech from the throne.

"To express the grateful sense which this House has of his Majesty's attention to an object so interesting to his people, as the impartial administration of justice, and the integrity and independency of the Judges of the land: and to assure his Majesty, that his faithful Commons see, with joy and veneration, the warm regard and concern which animate his royal breast, for the security of the religion, laws, liberties, and properties, of his subjects; and that this House will immediately proceed upon the important work recommended by his Majesty, with such tender care of

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But though this change was excellent, yet here was still a chasm;—a cloud which might arise *in futuro*.

Some points of prerogative might come in question—favourites with most kings in possession or reversion.

Besides, it gave the Judges a new, heterogeneous and unconstitutional dependance. They were sworn to one king, and depended upon a future king in expectancy. His Majesty has demonstrated his wisdom in chusing to shut this door.—In the first place, to secure his people; in the next place, to prevent encouragement to divisions in a place, where division must always create the worst and most disagreeable faction in the state.

For doing this, his Majesty has laid his reasons before you. They are such as might have become, as they are truly worthy, the most renowned legislators of antiquity. (Read them from the Speech.)

The importance of this to the liberties and rights of the people is proved.

The importance of it to the impartial administration—evident from the same reasons.

His Majesty infers and concludes, like a great king, and a good patriot—that all this must certainly be most for the honour of the crown of Great Britain.

But I cannot quit this subject without stopping to observe a little upon the state of the administration of justice in this country.

How happy in all respects, especially when this single weak place shall be fortified.

Look round the other nations of Europe—Judges during pleasure;

Or else their places venal by law. Continued in the same families by survivances, whether of persons qualified or unqualified.

Solicitation of Judges in causes allowed—expressed.

In the best policied countries abroad, judges do not give the reasons of their judgments in public and openly.

I have always looked upon this as one great security.

Some persons prefer the reputation of their understanding to that of their conscience—would be ashamed to talk nonsense to the world in support of a judgment, that they would suffer themselves to give silently.

This, which is the only defect remaining, his Majesty voluntarily and of his mere motion invites you to cure.

Reflect upon the histories of former times—with what difficulty such acts have been obtained, I was going to say, extorted from the crown by your ancestors—after many struggles—sometimes after more than one negative from the throne. Accept it now with thanks. Every one of your lordships feel that gratitude in your own breasts, I shall very imperfectly explain in the Motion, &c.

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his people, and will enable his Majesty to establish the salaries of judges in so permanent a manner, that the same may be enjoyed during the continuance of their commissions:

"To return his Majesty the sincere acknowledgments of this House, for his gracious acceptance of the services of his faithful Commons; and to assure his Majesty, that they will proceed with unanimity and dispatch to finish the remaining business of this session of parliament."

Resolved, That this House will to-morrow resolve itself into a committee of the whole House, to take into consideration his Majesty's most gracious Speech.

Resolutions of the Commons respecting the Salaries of the Judges.] March 4. The said Committee came to the following Resolutions, which were agreed to by the House, *nem. con.*

"Resolved, 1. That it is the opinion of this Committee, that provision be made for continuing the commissions of judges, notwithstanding the demise of his Majesty, or of any of his heirs and successors. 2. That his majesty be enabled to grant and establish the salaries of judges, in such manner as to be absolutely secured to them during the continuance of their commissions. 3. That such part of the salaries of judges as is now payable out of the yearly rent or sum granted for the support of his Majesty's houshold, and of the honour and dignity of the crown, be, from and after the demise of his present Majesty (whom God long preserve) charged upon and payable out of all or any such duties or revenues granted for the uses of his Majesty's civil government, as shall subsist after the demise of his Majesty, or of any of his heirs and successors."

A Bill, pursuant to the said Resolutions, was ordered to be brought in.

The Thanks of the Commons given to Mr. Speaker Onslow.] March 18. The Commons resolved, *nem. con.* "That the Thanks of this House be given to Mr. Speaker, for his constant and unwearied attendance in the chair, during the course of above thirty-three years, in five successive parliaments; for the unshaken integrity and steady impartiality of his conduct there; and for the indefatigable pains he has, with uncommon abilities, constantly taken, to promote the real interest of his king and country, to maintain the honour and dignity of parliament, and to preserve inviolable the rights and privileges of the Commons of Great Britain."

Upon which Mr. *Speaker* said;

"I was never under so great a difficulty in my life to know what to say in this place, as I am at present—Indeed it is almost too much for me—I can stand against misfortunes and distresses: I have stood against misfortunes and distresses; and may do so again: but I am not able to stand this overflow of good will and honour to me. It overpowers me: and had I all the strength of language, I could never express the full sentiments of my heart upon this occasion, of thanks and gratitude. If I have been happy enough to perform any services here, that are acceptable to the House, I am sure I now receive the noblest reward for them; the noblest that any man can receive for any merit, far superior, in my estimation, to all the other emoluments of this world. I owe every thing to this House: I not only owe to this House that I am in this place, but that I have had their constant support in it; and to their good will and assistance, their tenderness and indulgence towards me in my errors, it is, that I have been able to perform my duty here to any degree of approbation: thanks therefore are not so much due to me for these services, as to the House itself, who made them to be services in me.

"When I began my duty here, I set out with a resolution, and promise to the House, to be impartial in every thing, and to shew respect to every body. The first I know I have done, it is the only merit I can assume: if I have failed in the other, it was unwillingly, it was inadvertently; and I ask their pardon, most sincerely, to whomsoever it may have happened; I can truly say, the giving satisfaction to all has been my constant aim, my study, and my pride.

"And now, Sirs, I am to take my last leave of you. It is, I confess, with regret, because the being within these walls has ever been the chief pleasure of my life: but my advanced age and infirmities, and some other reasons, call for retirement and obscurity. There I shall spend the remainder of my days; and shall only have power to hope and to pray, and my hopes and prayers, my daily prayer will be, for the continuance of the constitution in general, and that the freedom, the dignity,

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and authority of this House may be perpetual."

Resolved, *nem. con.* That the thanks of this House be given to Mr. Speaker, for what he has now said to the House: and that the same be printed in the Votes of this day.

*The Commons address the King to reward Mr. Speaker Onslow.**] The Commons next resolved, *nem. con.* "That an humble Address be presented to his Majesty, humbly to beseech his Majesty, that he will be graciously pleased to confer some signal mark of his royal favour upon the right hon. Arthur Onslow, esq. Speaker of this House, for his great and eminent services performed to his country, for the space of 33 years and upwards; during which he has, with such distinguished ability and integrity, presided in the chair of this House: and to assure his Majesty, that whatever expence his Majesty shall think proper to be incurred upon that account, this House will make good the same to his Majesty."

The King's Answer.] March 19. Mr. Vice-Chancellor reported to the House his Majesty's Answer, which was,

"That his Majesty has the justest sense of the long services and great merit of Mr. Onslow, present Speaker of the House of Commons; and had already taken the same into his consideration: and that he will do therein what shall appear to his Majesty to be most proper, agreeable to the desire of his faithful Commons."

The King's Speech at the Close of the Session.†] March 19. His Majesty came to the House of Peers, and after giving the royal assent to several Bills, put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"I cannot put an end to this session without declaring my entire satisfaction in your proceedings during the course of it. The zeal you have shewn for the honour of my crown, as well as for my true interest, and that of your country, which are ever the same, is the clearest demonstration of that duty and affection to my person and government, of which you so unanimously assured me at your first meeting. Nothing could so much add to the pleasure which these considerations afford me, as that I am now able to acquaint you with the great progress made of late by the combined army in Germany, under the command of prince Ferdinand of Brunswick. I formerly told you, that the nature of the war in those parts had kept the campaign there still depending; and it now appears, to the surprise of my enemies, that the superior ability and indefatigable activity of my general, and the spirit and ardour of my officers and troops, have greatly profited of this perseverance, notwithstanding all the difficulties arising from the season.

"By your assistance I have taken the best care to recruit that army in an effectual manner; and have made such a disposition of my fleet for the next summer, as may most advantageously defend my kingdoms, protect the commerce of my

* A pension of three thousand pounds was settled on Mr. Onslow, with benefit of survivorship to his son. This testimony of regard to experienced merits, and long services, was extremely agreeable to the public; and the common council of London complimented the late Speaker with the freedom of the city in a gold box.

† "Upon the resignation of lord Holdernesse, in March, the King appointed lord Bute secretary of state; he also dismissed Mr. Legge from the chancellorship of the exchequer, and gave his office to lord Barrington. Several other removals and advancements of less importance were also made, and the duke of Richmond, disgusted with a military promotion which he considered injurious to his brother, lord George Lenox, resigned the post of lord of the bed-chamber. When lord Bute thus assumed a responsible situation in the cabinet, he was deluded by interested individuals into a belief, that he possessed a considerable portion of the public esteem, and that the popularity of Mr. Pitt was declining. They strongly represented to him that he was bound by every motive, public and private, to take an active part in the government, and he yielded to suggestions which accorded with his views of weakening the party, which, in his judgment, maintained a dangerous ascendancy. The prorogation and dissolution of parliament were delayed, to afford time for lord Bute to make the arrangements necessary to strengthen his interest: but the influence he expected to derive from the King's confidence, was engrossed by others, who had taken their measures unknown even to the King himself. He was early apprised of this, and cautioned against it, yet he took no measures to counteract those ministers who were resolved to secure parliamentary adherents by means of government interest, but entirely independent of the crown." Adolphus.

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subjects, maintain and extend our possessions and acquisitions, and annoy the enemy.

"As in all my measures I have nothing in view but the security and felicity of my dominions, the support of my allies, and the restoring of the public tranquillity, I trust in the Divine Providence to give a happy issue to our farther operations.

"Gentlemen of the House of Commons,

"I cannot sufficiently thank you for your unanimity and dispatch, in providing for the expences of my civil government, and the honour and dignity of the crown: and I think myself as much obliged to you, for the prudent use which, in framing that provision, you have made of my consent to leave my own hereditary revenues to such disposition of parliament as might best conduce to the utility and satisfaction of the public, as for what more immediately concerns myself.

"In making my acknowledgments for the large and extensive supplies which you have granted me this session, I am at a loss whether most to applaud your cheerfulness in giving or your wisdom in proportioning them to the extraordinary occasions of the public, notwithstanding those uncommon burthens, which I heartily regret. No care shall be wanting on my part to see them duly applied to the national ends for which you intended them.

"My Lords and Gentlemen,

"The expiration of this parliament now drawing very near, I will forthwith give the necessary orders for calling a new one. But I cannot take my leave of you, without returning my thanks for the many eminent proofs you have given of your fidelity and affection to my family and government, and of your zeal for this happy and excellent constitution.

"During this parliament the flame of war was kindled, by the injurious encroachments and usurpations of our enemies; and therefore it became just and necessary on our part. In the prosecution of it you have given such support to my royal grandfather and myself, and such assistance to our allies, as have manifested your public-spirited concern for the honour of the nation, and the maintenance of its undoubted rights and possessions, and been attended with glorious successes, and great acquisitions in various parts of the world, particularly in the entire reduction of Canada; a conquest of the utmost importance to the security of our colonies in North America, and to the extension of the commerce and navigation of my subjects.

"May God Almighty grant continuance to these successes! The use which I propose to make of them is to secure and promote the welfare of my kingdoms, and to carry on the war with vigour, in order to procure to them the blessings of peace, on safe and honourable conditions for me and my allies, to which I have been always ready to hearken.

"Firm in these resolutions I do, with entire confidence, rely on the good dispositions of my faithful subjects in the choice of their representatives; and I make no doubt but they will thereby demonstrate the sincerity of those assurances which have been so cordially and universally given me, in the loyal, affectionate, and unanimous, addresses of my people."

On the following day the parliament was dissolved.

PAPERS RELATING TO MR. SECRETARY PITT'S NEGOCIATION FOR PEACE BETWEEN ENGLAND AND FRANCE IN THE YEAR 1761.*] As the following

* "One of the most interesting and important transactions of this year, was the negociation for peace between Great Britain and France. In consequence of the desire expressed by the court of Versailles, M. de Bussy was received in London, and Hans Stanley at Paris, as ministers. After some delay, the principles were fully arranged. These were, That the conquests made on each side should be considered as the property of the conquerors, and either retained or exchanged according to their value: certain periods were also fixed, though not without great discussions, at which the effect of this stipulation was to begin: and it was agreed, that all arrangements between the two crowns should be conclusive, independent of the fate of the congress then expected to take place at Augsbourg.

"These proposals were made by the French ministers; but there is no room to believe that they were even yet sincere in the wish for peace. They entertained great hopes of inducing Spain to engage in the quarrel, and therefore ostentatiously submitted to make humiliating attempts at conciliation, judging this to be the most certain mode of alarming the court of Madrid, and inducing the Spanish minister to prevent the conclusion of peace with Great Britain, by an early avowal of hostility. Spain had declared that France was sufficiently humbled, but must not be ruined; and therefore every appearance of immoderate conces-

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Papers throw great light on the Proceedings of the first Session of the New Parliament, it is thought proper to introduce them in this place:

COPIES OF THE DECLARATIONS, LETTERS, AND MEMORIALS, WHICH PASSED BETWEEN ENGLAND AND FRANCE, IN THE NEGOCIATION FOR PEACE IN THE YEAR 1761.

DECLARATION of their Prussian and Britannic Majesties.

Their Britannic and Prussian majesties, touched with compassion when they reflect on the evils which have been occasioned and must still necessarily result from the war which has been kindled for some years past, would think themselves wanting to the duties of humanity, and particularly regardless of the interest they take in the preservation and welfare of their respective kingdoms and subjects, if they neglected to use proper measures towards checking the progress of this cruel pestilence, and to contribute towards the re-establishment of public tranquillity. It is with this view, and in order to ascertain the sincerity of their intentions in this respect, that their aforesaid majesties have resolved to make the following declaration:

That they are ready to send plenipotentiaries to any place which shall be

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sion could not fail of exciting great emotion. The British ministry did not entertain sanguine hopes of a successful issue of the negociation, as after it had commenced, the expedition against Belleisle was undertaken.

"Choiseul conducted the business with great art and address: he contrived to impress on Mr. Stanley's mind, the necessity of keeping the extent of the proposed compensations an entire secret, not only from the ministers of the allies of England, but even from M. de Bussy himself; and, after much debate, agreed that France should make a specific proposal of compensations: which proposal although in some respects liberal, could not form the basis of an honourable treaty, as many claims of France were exorbitant, and presumptuous. In India, particularly, it was proposed that Great Britain should resign valuable and extensive conquests, without an equivalent, and merely in compliance with a principle of policy, not of law or justice, dictated by an enemy. The requisition for the restitution of prizes, although recommended by some shew of moderation, was, in fact, equally arrogant, as it affected to make a distinction between the French nation and individuals composing it, and concluded with a clamorous appeal to the law of nations, and an assertion that the arguments advanced on the part of France were unanswerable. The articles respecting the conquests made from the king of Prussia were no less insidious and presumptuous; if the congress of Augsbourg failed of producing an immediate pacification, that monarch must, in all probability, have been crushed by the powerful combination of his enemies, an event which France knew Great Britain would not permit.

"It is very doubtful if the proposals could have been so modified as to produce a good system of pacification: but perhaps the French minister had previously secured the co-operation of Spain, and even planned the treaty which was afterwards carried into effect, and the operations which resulted from the alliance. This conjecture is rendered more probable by the delivery of another memorial on the affairs of Spain, in which the French king, more than equivocally, intimated the hostile disposition of the court of Madrid, and required, as the means of securing a solid peace—1. The restoration of some captures made during the war. 2. The privilege for the Spanish nation to fish on the banks of Newfoundland; and 3. The demolition of the English settlements in Honduras. Such proceedings sufficiently evinced that France was not desirous of peace: but to aggravate the impropriety of the previous demands, a third memorial was delivered, stating the consent of the empress queen to a separate pacification between France and England, provided she might retain possession of the countries conquered from Prussia, and none of the auxiliaries in alliance with Hanover should join with Frederick.

"Mr. Pitt resolutely declared, both in conversation and writing, that the King would not suffer the differences with Spain to be blended in the disputes then under discussion; a further mention of them, he said, would be considered an affront to his Majesty's dignity, and incompatible with the sincerity of the negociation, and he returned the memorials relating to Spain and Prussia, as totally inadmissible. He afterwards answered the French propositions, and insisted on terms more consistent, perhaps, with the situation in which this country stood from the advantages of conquest, than with the pacific sentiments which were supposed to give rise to the treaty. If France had acceded to them, she surrendered all sources of wealth and political importance in America, Africa, and Asia. The demolition of Dunkirk was peremptorily demanded, as the price of liberty to fish on the banks of Newfoundland; and that permission was rendered less valuable by a refusal to cede Cape Breton. Belleisle was offered as an equivalent for Minorca. Guadaloupe and Marigalante were to be restored; but as the minister refused to part with Senegal or Goree, the difficulty of obtaining negroes would have rendered the French West India islands of

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judged most convenient, in order to treat, in conjunction, concerning a general and firm peace, with those whom the belligerent powers shall think proper to authorize on their side, towards the accomplishment of so salutary an end.

I certify that the above declaration is the same which was dispatched to me by the earl of Holdernesse and the baron Knyphausen, in the name, and on the part of their Britannic and Prussian majesties.

Given at the castle of Ryswick, this 25th of November, 1759.

(Signed) L. D. de BRUNSWICK.

DECLARATION of his Most Christian Majesty.

The pacific dispositions which the kings of England and Prussia expressed the last year, and which are conformable to the sentiments of all the belligerent powers, having met with some difficulties which have proved obstacles to their success, the courts of France, Vienna, Petersburg, Stockholm, and Warsaw, have unanimously agreed to invite those of London and Berlin, to the renewal of a negociation so expedient for the welfare of mankind, and which ought to interest all the powers at war in the cause of humanity.

With this view, and in order to proceed towards the re-establishment of peace, they propose the meeting of a congress, at which they think it will be convenient to admit, with the plenipotentiaries of the principal belligerent powers, no other than those of their allies. If the kings of England and Prussia adopt this measure, his most Christian majesty, the empress queen, the empress of Russia, the king of Sweden, and the king of Poland elector of Saxony, propose the town of Augsburg, as the place of congress, which they only point out as a town within the reach of all the parties interested, which by its situation seems to suit the convenience of all the states, and they will not oppose the choice of any other town in Germany, which their Britannic and Prussian majesties may deem more convenient.

His most Christian majesty, the empress queen, the empress of Russia, and the kings of Sweden and Poland, declare farther, that they have made choice of plenipotentiaries, to whom they will commit their interests at the congress, in expectation that the king of England, the king of Prussia, and their allies, will speedily make choice of their respective ministers, that the negociation may not be retarded.

The sincerity of this declaration, which the courts of France, Vienna, Petersburg, Stockholm, and Warsaw, have out of regard to the general good, determined to make to the courts of London and Berlin, gives them to hope that their Britannic and Prussian majesties will signify, by a speedy answer, their sentiments on a subject so essential to the peace and welfare of Europe. By order and in the name of his most Christian majesty.

(Signed) The Duke de CHOISEUL.

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little value. Canada was to be retained, but the limits were not accurately defined. The question concerning conquests in India, was left to the discussion of the English and French East India Companies. The restitution of prizes was refused; and the King would continue, as an auxiliary, to assist the king of Prussia in the recovery of Silesia.

"It might be easily proved that these terms were no less injudicious than immoderate. The equitable end of war is not the political annihilation of an enemy, but the termination of disputes, and the securing of an honourable and permanent peace. Neither of these objects could have been attained by this pacification; and France, however reduced in finance, could not be expected to receive such disgraceful conditions, while she had yet the means of prolonging a contest, which might produce a change in her favour, but could hardly reduce her to a more deplorable state of necessity.

"The minister, therefore, did not act with his usual wisdom in giving his opponent the advantage of complaining that his haughtiness rendered the treaty impracticable; and he furnished Spain with some pretence for the conduct she resolved to adopt. The minister from that country avowed the offensive memoral delivered by M. de Bussy, and Spanish gold began to be coined on the frontier towns for the benefit of France.

"Yet as matters were not ripe for an open rupture, the farce of negociation was continued: an *ultimatum* was delivered from the court of France, replying to the propositions of England; and memorials were sent respecting the prizes; which, with the dubious conduct of Spain, necessarily occasioned some delays. M. de Choiseul amused Mr. Stanley with equivocal declarations, and even induced him to believe that the introduction of Spanish affairs was not a voluntary act, but extorted by the exigencies of his situation. At length the famous treaty, called the Family Compact, was secretly signed, and although it was not ratified, and the conditions unknown, yet Mr. Stanley received obscure intelligence on the subject, which he communicated to Mr. Pitt. The French *ultimatum* was peremptorily rejected; the negociation abruptly terminated, and M. de Bussy and Mr. Stanley returned to their respective courts." Adolphus.

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LETTER from the Duke de Choiseul to Mr. Pitt.

Sir; the king my master, acting in conformity with the sentiments of his allies, in order, if possible, to procure the re-establishment of a general peace, has authorised me to transmit to your excellency the Memorial hereto annexed, which solely concerns the interests of France and England, with respect to the particular war between the two crowns. The king has reason to hope, that the sincere manner in which he proposes to treat with his Britannic majesty will banish all mistrust in the course of the negociation if it takes place, and will induce his Britannic majesty to make the king acquainted with his real sentiments, whether with regard to the continuance of war, or with respect to the conclusion of peace, as well as in relation to the principles on which they ought to proceed, in order to procure this blessing to the two nations.

I will add, that I am likewise authorised to assure your excellency, that in relation to the war in which the king of Prussia is concerned, the allies of the king my master are determined to treat of their interests in the future congress, with the same frankness and sincerity, of which I can give your excellency assurance on the part of France; and that, so as not to depart from what is due to their dignity, their situation, and the demands of justice, they will bring with them to the negociation, all the acquiescence, which their humanity dictates for the general good of Europe.

The king, my master, and his allies, do not doubt but that they shall find the heart of his Britannic majesty and his allies, impressed with the same sentiments. I esteem it a happiness that my office makes me the instrument of conveying such favourable sentiments, which give me an opportunity of assuring your excellency, with what distinguished consideration I have the honour to be, &c.

MEMORIAL of the Christian King.

The most Christian king wishes that the separate peace of France with England could be united with the general peace of Europe, which his majesty most sincerely desires to establish; but as the nature of the objects which have occasioned the war between France and England, is totally foreign from the disputes in Germany, his most Christian majesty has thought it necessary to agree with his Britannic majesty on the principal articles which may form the basis of their separate negociations, in order to accelerate as much as possible the general conclusion of the peace.

The best method to accomplish the end proposed, is to remove those intricacies which might prove obstacles to its success. In the business of peace the disputes of nations concerning their reciprocal conquests, the different opinions with respect to the utility of particular conquests, and the compensations for restitutions, generally form matter of embarrassment at a negociation of peace. As it is natural for each nation, with regard to these different points, to endeavour the acquisition of all possible advantages, interest and distrust occasion oppositions and produce delays. To obviate these inconveniencies and to testify the sincerity of his proceedings in the course of the negociation of peace with England, the most Christian king proposes to agree with his Britannic majesty, that with respect to the particular war of France and England, the two crowns shall remain in possession of what they have conquered from each other, and that the situation in which they shall stand on the 1st of September, in the year 1761 in the East Indies, on the 1st of July in the same year, in the West Indies and in Africa; and on the 1st of May following in Europe; shall be the position which shall serve as a basis to the treaty which may be negociated between the two powers. Which shews that the most Christian king, in order to set an example of humanity, and to contribute to the re-establishment of the general tranquillity, will make a sacrifice of those restitutions which he has a right to claim, at the same time that he will maintain those acquisitions which he has gained from England during the course of the war.

Nevertheless as his Britannic majesty may think that the periods proposed of the 1st of September, July, and May, are either too near or too distant for the interests of the British crown, or that his Britannic majesty may judge it proper to make compensation for the whole, or for part of the reciprocal conquests of the two crowns, the most Christian king will readily enter into negociation with his Britannic majesty in relation to these two objects, when he shall know his sentiments concerning them; the principal view of his most Christian majesty being to testify not

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only to England, but to the whole world his sincere disposition to remove all impediments which might defer the salutary object of peace.

The most Christian king expects, that the disposition of his Britannic majesty will be correspondent, and that he will, with equal sincerity, answer all the articles contained in this Memorial, in which the two powers are so essentially interested.

These pieces were dated the 26th of March, 1761.

Mr. Pitt's Letter to the Duke of Choiseul.

London, 8th April, 1761.

Sir; The King my master has authorised me to transmit to your excellency, with all the dispatch which was found possible, the Memorial hereto annexed, in answer to that of the 26th of the last month, made by the order, and in the name of his most Christian majesty, solely concerning the interests of England and France, relative to the particular war between the two crowns, which was accompanied by a letter from your excellency of the same date, transmitted to me by M. the Prince Galitzin.

His Majesty has published his real sentiments, with regard to the salutary business of peace, with the sincerity which his Christian majesty desires, and of which he himself set the example; the King my master, on his part, desires nothing more than, by the sincerity of his conduct, to remove all distrust in the course of negociation.

I will likewise acquaint your excellency, that the King learnt with great satisfaction, that your excellency was authorized to give assurance that, in relation to the war which concerns the king of Prussia, the allies of his most Christian majesty are determined to treat with the same openness and sincerity as the court of France, and that they will bring with them, to the negociation at the future congress, all the acquiescence which their unanimity dictates for the general good of Europe.

I must add that, with regard to the war which concerns the king of Prussia, as well as with respect to the other allies of the King my master, his Majesty, always constant in fulfilling the engagements of his crown with the most scrupulous exactness, can never fail to support their respective interests, whether in the course of the negociation, (which may God prosper) or in the continuance of the war, (if contrary to all expectation this misfortune should be unavoidable) with the cordiality and efficacy of a sincere and faithful ally.

As to what remains, it is superfluous to mention to what degree his Majesty wishes for this speedy establishment of the general peace in Germany, after the distinguished proof his Majesty has given, in so readily consenting to the proposition of so distant a place as the town of Augsburg for the meeting of the congress.

Such are the sincere and upright intentions of the King my master for the re-establishment of the public tranquillity. I think myself happy in having the charge of conveying such sentiments, and of having an opportunity of assuring your excellency of the distinguished regard with which I have the honour to be, &c.

(Signed) W. Pitt.

The Memorial of his Britannic Majesty, of the 8th of April, 1761.

His Britannic majesty, equally desirous with the most Christian king, that the separate peace of England and France could be united with the general peace, for which the King of Great Britain is so sincerely interested, that, in regard to this point, he even means that the contests which might arise between the two crowns concerning their particular differences, should not occasion the least delay to the speedy conclusion of so salutary a work as the general peace of Germany; and his Britannic majesty is the more confirmed in this sentiment, dictated by humanity towards so many nations, that he feels in all its extent the proposition which the most Christian king establishes as a fundamental principle; that the nature of the objects which have occasioned the war between England and France, is totally foreign from the disputes in Germany.

In consequence of this incontestible principle, the King of Great Britain entirely adopts the sentiment of his most Christian majesty, that it is necessary to agree between the two crowns on some principal articles, which may form the basis of their particular negociations, in order the more to accelerate the conclusion of a general peace.

The King of Great Britain equally agrees in general to the proposition which the most Christian king has made with an openness, in which his Britannic majesty will concur throughout the course of the negociation; that is to say, that, in

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relation to the particular war between England and France, 1. The two crowns shall remain in possession of what they have conquered, one from the other. 2. That the situation in which they shall stand at certain periods, shall be the position to serve as a basis for the treaty which may be negociated by the two powers.

With regard to the first branch of the aforesaid proposition, his Britannic majesty takes pleasure in doing justice to the magnanimity of his most Christian majesty, who, from motives of humanity, determines to sacrifice to the love of peace, the restitution which he thinks he has a right to claim, maintaining at the same time what he has conquered from England during the course of the war.

With respect to the second head of the aforesaid proposition, concerning the reciprocal conquests made by the two crowns, one upon another; that is to say, That the situation in which they shall stand at the respective periods assigned for the different quarters of the globe, shall serve as a basis for the said treaty, the king of Great Britain again acknowledges with satisfaction the candour which is manifested on the part of his most Christian majesty in this article, by obviating, as he has done, the extreme difficulties, and by anticipating the indispensable objections, which could not but arise on such a subject; it being in fact self-evident, that expeditions at sea requiring preparations of long standing, and depending on navigations which are uncertain, as well as on the concurrence of seasons, in places which are often too distant for orders relative to their execution to be adapted to the common vicissitudes of negociations, which for the most part are subject to disappointments and delays, and are always fluctuating and precarious; from whence it necessarily results, that the nature of such operations is by no means susceptible, without prejudice to the party who employs them, of any other epochas, than those which have reference to the day of signing the treaty of peace.

Nevertheless as this consideration, as well as that which respects the compensations (if such shall be found proper to be made between the two crowns) on account of their reciprocal conquests, comprehend the most interesting and capital articles of the treaty, and as it is upon these two decisive objects that the most Christian king voluntarily offers to enter into a negociation; the king of Great Britain, desiring to concur effectually with the favourable dispositions of the most Christian king, in order to remove all impediments which might defer the salutary object of peace, his Britannic majesty declares that he is ready on his part to enter upon the proposed negociation with speed and sincerity. And more authentically to demonstrate to what extent the sincerity of his conduct proceeds, his Britannic majesty declares farther, that he should be glad to see some person at London sufficiently authorized by a power from the most Christian king, to enter upon this subject with the British ministers, in regard to the several articles contained in the letter of the D. de Choiseul of the 26th of March 1761, to the Secretary of State of his Britannic majesty, which points are so essentially interesting to the powers.

By the order, and in the name of the King of Great Britain my master.

(Signed) W. Pitt.

Letter from the D. de Choiseul to Mr. Pitt.

Versailles, 19*th April*, 1761.

Sir; I made the king my master acquainted with the letter which your excellency did me the honour to write to me on the 8th instant, as well as with the Memorial thereto annexed.

His majesty has remarked with real pleasure the conformity of his Britannic majesty's sentiments with his own, in regard to the sincere and open conduct which it becomes two such great powers to observe in the negociation of a peace.

The king has not delayed, Sir, the nomination of an ambassador to represent him at the congress at Augsburg. His majesty has made choice of the count de Choiseul, at present his ambassador at Vienna, and he will repair to the town appointed, at the beginning of July, in the expectation which we entertain here, that his Britannic majesty will send his ambassador thither at the same time.

The king has commanded me, Sir, to observe on this occasion to your excellency, in answer to the declaration contained in your letter, that his majesty, as constant as any other power in fulfilling the engagements he has made with the allies, with the most scrupulous punctuality, will continue, with that fidelity which is consistent with the integrity and dignity of his character, to make his cause common with theirs, whether in the negociation for the peace of Germany, or in

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the continuance of the war, if to the misfortune of mankind, the favourable dispositions in which the belligerent powers are at present should not be attended with the success which is so earnestly desired.

I ought not, on this occasion, to omit informing your excellency with what concern the king would see himself obliged to continue such a destructive war, after having entertained a confidence that all the parties were interested in putting a stop to the calamities it occasions.

As to what relates to the war in particular between France and England, I have annexed to this letter a Memorial in reply to that of your excellency. We cannot be too zealous in explaining the upright intentions of our masters, in order to remove, at the beginning of this interesting negociation, those misunderstandings which often augment, instead of lessening the delay.

You are a minister, Sir, too enlightened not to approve of this principle. I have the honour to be, &c.

(Signed) Le Duc de Choiseul.

Memorial of his Most Christian Majesty of the 19th April, 1761.

The most Christian king perceives with satisfaction, that his Britannic majesty agrees that the nature of the objects which have occasioned the war between France and England is totally foreign from the disputes which have given rise to the war in Germany; it is in consequence of this principle that his most Christian majesty offered the King of England to treat concerning the preliminaries relative to the particular interests of the two crowns; but in making that proposition, the king of France did not understand, as the beginning of the Memorial of London of the 8th of April seems to intimate, that the peace of Germany could take place, without the differences between France and England being adjusted. His most Christian majesty has sufficient confidence in his allies to be certain that they will neither conclude a peace nor a treaty without his consent. He did not understand therefore, that the peace of Germany could be concluded distinctly from that of France and England, and he only proposed to the King of England to separate the discussion of the two wars, in order to bring about a general peace for all parties.

His most Christian majesty renews the proposition which he caused to be made in the first Memorial, that the two powers should remain in *statu quo* with regard to their possessions and conquests according to the periods stated in the said Memorial; but his majesty observes, that the basis of the proposition is necessarily connected with the epochas proposed; for it is easy to conceive that such events may happen on either side, as may absolutely prevent an acquiescence to the *uti possidetis*, if the epochas are distant; and his most Christian majesty has the more reason to recal the whole proposition, if the King of England does not acquiesce to the epochas annexed to it, since no one can doubt but that those periods were proposed at a time when they were not advantageous to France.

It is certain that the reciprocal conquests cannot be ascertained but on the day of signing the peace; but it is no less certain, that it is impossible to fix the basis of a negociation for peace, otherwise than according to the situation in which the belligerent parties stood at such or such a period of the war. This is the light in which the king of France understood the proposition which he made to the King of England; and it is upon this principle, if his Britannic majesty adopts it, that his most Christian majesty will send a minister to London with credentials, and charged with full power sufficient to treat with the ministers of the King of Great Britain, either with respect to the ground of the dispute, or in regard to the compensations proper to be made to the two crowns, as well as concerning the interests of their colonies and their commerce. The disposition of his most Christian majesty, to put an end to the miseries of war, which divides the two nations under their government, is equal to that of his Britannic majesty; but as the zeal on both sides should be alike, at the same time that the most Christian king shall send M. Bussy to London, he hopes that the King of Great Britain will send an English minister to France, to treat concerning the same objects with his ministry. His most Christian majesty expects the answer of his Britannic majesty on the contents of this Memorial, in order to expedite and receive the reciprocal and necessary passports.

By the order and in the name of the king my master.

(Signed) Le Duc de Choiseul.

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Mr. Pitt's Letter to the Duke de Choiseul.

Whitehall, 28th April, 1761.

Monsieur; I have laid before the King my master the letter which your excellency did me the honour to write to me the 19th of this month, as also the Memorial which was annexed to it.

His Majesty sincerely wishes to maintain an entire conformity of sentiments with his most Christian majesty, in relation to the uniform and direct method which it is proper to pursue in a negociation equally delicate and important.

The King understands, Sir, with pleasure, that his most Christian majesty has made choice of the count de Choiseul to represent him at the congress at Augsburg, and that that ambassador will repair to the destined town at the beginning of July; and the King has charged me to inform your excellency, that he has nominated the earl of Egremont, lord viscount Stormont, and sir Joseph York, to represent him at the said congress, and that his ambassadors will likewise repair to Augsburg at the beginning of July.

It becomes me, on this subject, to acquaint your excellency, that the regret of the King my master would not be less than that of the most Christian king, to see the war continued in Germany, which is destructive to so many nations.

I annex to this letter a Memorial, in answer to that of your excellency of the 19th instant, in relation to the war in particular between Great Britain and France. It is true, Sir, the principle of removing misunderstandings in business upon all occasions, cannot be too highly approved; therefore it cannot escape the observation of your excellency, that at the beginning of an accommodation, unexpected alterations naturally have the effect of involving the overtures in obscurity and uncertainty, rather than of introducing that perspicuity and confidence, so indispensable in a negociation between two such great powers. As the natural remedy against inconveniences of this nature seems to be the presence of reciprocal ministers, who, treating by word of mouth, may give an explanation immediately on starting of a doubt, your excellency will see by the Memorial hereto annexed, the disposition of his Majesty in this respect. I have the honour to be, &c.

(Signed) W. Pitt.

The Memorial of his Britannic Majesty, of the 28th of April, 1761.

The king of Great Britain, always influenced by the same desire of putting an end to the miseries of the war, which is unhappily kindled between Great Britain and France, has with pleasure concurred in every measure which tends to remove the obstacles which impede so salutary a work. It is with this view that his Britannic majesty will readily send Mr. Stanley to France, in the quality of his minister, at the same time that the most Christian king should send Mr. Bussy to London.

As to what remains, his Majesty does not find by the Memorial of the 26th of last month, made in the name of his most Christian majesty, that the ground of the proposition therein contained, concerning the reciprocal conquests, is necessarily connected with the periods proposed; quite on the contrary; it is expressly about those very periods that the most Christian king offers to enter into a negociation. These are the express words: "Nevertheless, as his majesty may think, that the proposed periods of September, July, and May, may be either too near or too distant for the interests of the British crown, or that his Britannic majesty should think proper that compensation should be made for the whole or part of the reciprocal conquests of the two crowns, upon these two points, the most Christian king will readily enter into a negociation with his Britannic majesty, when he shall be acquainted with his intentions."

It was in consequence of an offer so clearly expressed, and not capable of misconstruction, that his Britannic majesty resolved to declare that he was ready on his part to enter with speed and sincerity, upon the proposed negociation. The king of Great Britain, persevering in his intentions, renews his former declaration; and his Britannic majesty, to leave no doubt with regard to his inclinations, has forwarded the passport hereto annexed, and will be glad to receive one immediately in return from the court of France, that, by means of a treaty by word of mouth, as well with respect to the grounds of the dispute, as in relation to the epochs, as also in regard to the compensation which may be agreed on between the two crowns, they may be better able on both sides to clear up doubts, and remove all ambiguities from the negociation, which, in order

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to be effectual, should be conducted on both sides with sincerity, precision, and expedition.

By the order, and in the name of the King, my master.

(Signed) W. PITT.

LETTER from the Duke de Choiseul to Mr. Pitt.

Sir; the king, my master, entirely adopts the principle advanced in the letter with which your excellency honoured me on the 28th of last month, as likewise in the Memorial thereto annexed, with respect to the necessity of dispatching respective ministers, in order to elucidate a number of difficulties, which it is impossible to obviate by letters and memorials. I should nevertheless have been proud of the honour of negociating so important an affair personally with your excellency. No one has a higher confidence than myself in the integrity and the uncommon talents which your excellency possesses, and I do presume, that the intentions of the kings, our masters, being at once determined on peace, the sagacity of your excellency, joined to my zeal for so precious a blessing, would have smoothed all difficulties; but as our employs necessarily keep us at a distance from a personal negociation, M. de Bussy, who is used to transact business with me, will supply, near your excellency, the desire I have of concurring in the salutary views of peace, which seem to animate all the belligerent powers. I entreat your excellency to grant him your favour, and I am certain that he will use his utmost endeavours to deserve it.

Your excellency will see by my private letter, to which his majesty's passports for Mr. Stanley are annexed, some precautionary arrangements which I propose to be settled, in order to prevent the inconveniences which might arise on the first dispatch of the respective ministers. I have the honour to be, &c.

(Signed) Le Duc de CHOISEUL.

Another LETTER from the Duke de Choiseul to Mr. Pitt, of the 4th May, 1761.

I have received the passport of the king of Great Britain, which your excellency did me the honour to send for M. Bussy, in the quality of minister of the king, my master; and I send you in return his majesty's passport for Mr. Stanley, whom his Britannic majesty has been pleased to appoint in order to come to this court in the same capacity. I think it my duty, on this occasion, Sir, to make observations, which seem to me necessary to warrant the execution of the commissions of those two ministers.

1. The king thinks, that his Britannic majesty will judge it convenient that the two ministers should be charged with full power from the respective courts to use upon occasion.

2. That the two ministers should each of them have letters of credence from the kings, their masters, which they shall deliver to the respective secretaries of state only; that is to say, in France, to the minister and secretary of state, for the department of foreign affairs; and in England, to the minister and secretary of state for the southern department.

3. As his majesty's intention is, that the English minister shall enjoy the same privilege in France, as if the two courts were in the midst of peace, as well with regard to the common intercourse of life, as in maintaining a correspondence with the court of England and the other courts of Europe, and lastly, for the dispatch of his couriers, and with respect to all the prerogatives and franchises in general incident to his character; his majesty relies, that M. Bussy will absolutely enjoy the same rights, prerogatives, franchises, and liberties, at London; it being understood, nevertheless, that when one or the other are about to dispatch their couriers to their own or any other court, they shall be obliged to require a passport from the secretary of state in that department, which shall not be refused to them, any more than the necessary vessel to transport their couriers from France to England, and from England to France.

4. We desire to know when Mr. Stanley will be ready to leave London in order to repair to Calais, in order to direct M. Bussy's journey, so that he may repair to Calais at the same time, to be transported to England in the same vessel which brings Mr. Stanley over, if that is agreeable to the court of Great Britain: if not, the king will keep a vessel in the port of Calais, which shall transport M. Bussy to England, in which case it will be proper to know what kind of vessel his Britannic majesty will chuse to bring Mr. Stanley to Calais.

I believe your excellency will find these observations proper, and that you will send me your answer as soon as possible.

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Mr. Pitt's ANSWER to the Duke de Choiseul, of the 11th May, 1761.

Sir; the King my master has learnt with real satisfaction, by the letter which your excellency did me the honour to write of the 4th of this month, that the sentiments of the most Christian king are conformable to those of his Majesty with respect to the mutual dispatch of the ministers from the two courts.

I hope your excellency will be persuaded, that I have a lively sense of the value of those obliging sentiments with which you have been pleased to honour me, and that, conscious as I am of your superior qualities, which have engaged the approbation of every court, I perceive in its full extent how flattering a circumstance it would have been for me to have had the honour of treating personally with your excellency upon so interesting an object, and to have shared with you, in point of zeal for the prosperous conduct of the peace, the satisfaction of co-operating more immediately to give the people assurance of the effects of the salutary dispositions of the kings our masters. I shall nevertheless take real pleasure, upon all occasions, to pay the respect due to M. Bussy's character, as well as to his merit; and I can assure you, Sir, that the happiness which that minister has had, of being used to transact business with your excellency, is an additional circumstance which cannot but interest me extremely in his behalf.

I am persuaded that Mr. Stanley, who is descended from an illustrious family, and who entertains noble sentiments, will use all his endeavours to merit the honour of your excellency's esteem, and he wishes to be recommended to your favour.

You will see, Sir, by my private letter, the reflections which have occurred in relation to the precautionary arrangements, which your excellency proposed to settle, and I hope that no farther impediments will remain on this subject.

I have the honour to be, &c.

(Signed) W. PITT.

Another LETTER from Mr. Pitt to the Duke de Choiseul, of the 11th May, 1761.

Sir; I have received the three passports, which your excellency has done me the honour to transmit for Mr. Stanley, in quality of minister from the King my master, and I in return transmit to you a second, which his Majesty has granted for the vessel which the most Christian king shall think proper to order for transporting M. Bussy into England; and I annex the order to the officers of the customs, for the free importation of the effects and baggage of the said minister.

As to what relates, Sir, to the observations which you thought yourself obliged to make, to warrant the execution of the commission of those two ministers, it is with great satisfaction I assure your excellency, that the King, in conformity with the sentiments of his most Christian majesty, is of opinion,

1. That the two ministers should be charged with ample power from the kings their masters, to make use of as occasion shall offer.

2. That the two ministers ought, each of them, to have letters of credence from their majesties, which they shall not need to deliver but to the secretaries of the respective states, in the manner specified by your excellency.

3. It is the intention of his Majesty, that M. Bussy should absolutely enjoy in England, the same rights, prerogatives, and franchises, and liberties, as if the two courts were in the midst of peace, and which Mr. Stanley, in pursuance of the intention of his most Christian majesty, is to enjoy in France; and as to the dispatch of couriers, as well as every thing else which concerns the two ministers, the tenor of the third article of observations relative to this head, shall be observed in every respect.

As to what remains, concerning the time of the departure of their crossing the sea, the king is of opinion, that in order to obviate all difficulties, Mr. Stanley and M. Bussy may respectively repair to Dover and Calais, to cross the sea each of them in a vessel appertaining to their own nation, which the kings their masters shall keep ready for that purpose in the two ports aforesaid. It is in confidence of this disposition, that I am obliged to acquaint your excellency, that the King will dispatch Mr. Stanley from London, so that he may reach Dover on the 23rd of this month, unless we learn that a time so near at hand should be inconvenient to the court of France; and the King my master relies, with full confidence, in M. Bussy's repairing to Calais on the aforesaid day, that the two ministers may cross the sea without delay, as far as the circumstances of wind and navigation will permit them. I will add to your excellency, that Mr.

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Stanley will make use of a packet-boat from Dover, and that M. Bussy may cross from Calais to England in whatever vessel his most Christian majesty shall judge convenient.

I flatter myself that your excellency will find that these arrangements will equally facilitate the method of the two ministers repairing to their reciprocal destinations without inconvenience.

I have the honour to be, &c.

(Signed) W. Pitt.

The Memorial of the British Minister, of the 17th June, 1761.

Mr. Stanley having represented by his letter of the 8th of June, that the D. de Choiseul, in the course of their conferences, had agreed, "That the epochs must still remain a matter of negociation, but that his excellency nevertheless was of opinion, that in the present state of that affair, according to the natural and usual course of things, his most Christian majesty having already named the first of September, July, and May, his Britannic majesty should proceed, either by accepting of those days, or by naming others more agreeable to his intentions, which were probably regulated by preparations and designs of which the court of France was ignorant; that this method appeared to him more likely to expedite the business than the making of reiterated propositions on their part, which could only be grounded on mere conjecture." It is upon this footing, that, in order to make a return to the above invitation on the part of France, as well as in consequence of his Majesty's having accepted the proposition of the said court of the 26th March last, his Majesty offers to agree with the most Christian king, that the first day of July, September and November following, shall respectively be the different periods or epochs, to fix the *uti possidetis* which France has proposed to make the basis of the treaty which may be negociated between the two powers. All other conquests made beyond these periods shall be mutually restored. But as his Majesty is of opinion that epochs which have no reference to the actual signature of something obligatory between the two crowns, must necessarily be only a vain illusion, void of use or reality; or that it might even happen that in the end they may prove the source of intricate disputes, and dangerous and captious altercations; and the King having no other view but to concur with the upright intentions of his most Christian majesty, in accelerating and confirming the blessings of peace to both nations, his Majesty only offers to agree to aforesaid epoch, on the two following conditions:

1. That every thing which shall be happily adjusted between the two crowns, in relation to their particular war, shall be made obligatory, final, and conclusive, independent of the negociation at Augsburg, which is to compose and terminate the disputes of Germany, and to re-establish a general peace.

2. That the said definitive treaty of peace between Great Britain and France shall be concluded, signed and ratified, or preliminary articles to that end, between this and the 1st of August next.

The restitution of the prizes taken at sea, shall be regulated according to the respective terms which are usual for different parts of the globe; which terms are to be computed from the day of the signature of the said definitive treaty, or of preliminary articles of peace, in case a ratification ensues.

The King, desiring farther to facilitate the salutary work of peace, as far as reason and justice will admit, declares moreover, that with regard to Belle-Isle, his majesty will agree, in the said future treaty, to enter into compensation for that important conquest.

With regard to farther compensations for any part of the other conquests made by the crown of Great Britain, his Majesty reserves himself, till he shall learn what are the most Christian king's desires in that respect, which when he shall know, his Majesty will open himself with perfect sincerity and good faith.

The French Memorial of Propositions, 15th July, 1761.

The negociations of peace entered upon between France and England, have proved that the sovereigns sincerely wish to re-establish that union and amity, so agreeable to humanity, between the two crowns; and the resolution in which the king concurs, in conjunction with his Britannic majesty, to terminate by a precise and durable treaty, the differences which have occasioned the present war, has determined his majesty, always maintaining the spirit and letter of the declaration of the 26th March last, in relation to the means of procuring peace, to explain more precisely by this memorial, the conditions,

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which appear to him most proper to accomplish the desirable end which influences him as well as the king of England.

But the king declares at the same time that he entrusts this proposition with the king of Great Britain, that if it should not be accepted by his Britannic majesty, or should not serve as a basis for the negociation of the future peace, the court of London shall in no circumstances take advantage of it, the said proposition made in confidence to the king of Great Britain having no other object than the accelerating of a negociation in which the two crowns are so much interested.

The *uti possidetis* expressed in the declaration of the 26th of March, is adopted on both sides; it would be difficult for either party to reject it: for though it was not expressed, it is properly according to what they possess only either lawfully or by conquest, that the parties can negociate together concerning peace, and the compensations requisite for that purpose.

The periods of the *statu quo*, which form the second essential article in the declaration of the 26th March, and which have remained in negociation between the two courts, have not yet been settled.

The court of France has proposed the epochs of May, July, and September; that of England has proposed the epochs of July, September and November. That question will be determined without farther negociation, if the scheme of the following treaty is adopted by the court of London, for then all the epochs will be valid, as that of the peace will unite the sentiments and opinions of the two kings.

It is the compensations therefore which will determine the epochs and the peace, and it is to settle them that his majesty proposes the following articles to the king of Great Britain.

ARTICLE I. The king cedes and guaranties Canada to the King of England, such as it has been and in right ought to be possessed by France, without restriction, and without the liberty of returning upon any pretence whatever against this cession and guaranty, and without interrupting the crown of England in the entire possession of Canada.

ART. II. The king in making over his full right of sovereignty over Canada to the King of England, annexes four conditions to the cession. First, that the free exercise of the Roman Catholic religion shall be maintained there, and that the King of England will give the most precise and effectual orders that his new Roman Catholic subjects may, as heretofore, make public profession of their religion, according to the rites of the Roman Church.

Secondly, That the French inhabitants or others, who have been subjects of the king in Canada, may retire into the French colonies with all possible freedom and security: that they may be allowed to sell their effects, and to transport their property as well as their persons, without being restrained in their emigration, on any pretence whatever, (except for debt;) and the English government shall engage to procure them the means of transportation at as little expence as possible.

Thirdly, That the limits of Canada, with regard to Lousiana, shall be clearly and firmly established, as well as those of Louisiana and Virginia, in such manner, that after the execution of peace, there may be no more difficulties between the two nations, with respect to Canada, or the other possessions of England.

[M. Bussy has a memorial on the subject of the limits of Louisiana, which gives him power to come to a final treaty on that article with the ministry of his Britannic majesty.]

Fourthly, That the liberty of fishing, and of drying their cod-fish on the banks of Newfoundland, may be confirmed to the French as heretofore: and as this confirmation would be illusory, if the French vessels had not a shelter in those parts appertaining to their nation, the king of Great Britain, in consideration of the guaranty of his new conquests, shall restore Isle Royal, or Cape Breton, to be enjoyed by France in entire sovereignty. It is agreed, to fix a value on this restitution, that France shall not under any denomination whatever, erect any fortifications on the island, and shall not confine herself to maintain civil establishment there, and the port for the convenience of the fishing vessels landing there.

ART. III. France shall restore to England the island of Minorca, and Fort St. Philip, in the same condition it was in when conquered by the king's forces, together with the artillery belonging to England, which was in the fort at the time of taking the island.

ART. IV. In consideration of this restitution, England, in her turn, shall restore to France the island of Guadaloupe and Marigalante: and those two islands shall be ceded in the same condition they were

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in at the time they were conquered by the arms of England.

ART. V. The islands called neuter, are Dominica, St. Vincent, St. Lucia, and Tabago. The two first are occupied by the Carribees, under the protection of France, according to the treaty of 1660: they shall remain in the condition they have been since that treaty.

The crown of England has not yet shewn any title, which gives them a right over the two last; nevertheless, it shall be a matter of negociation between the two crowns, either that the four islands shall remain absolutely neuter, or that the two possessed by the Carribees alone shall be declared neuter; and that England shall enter into possession, as sovereign over the island of Tabago, in the same manner as France over that of St. Lucia, saving, at all times, the right of a third person, with whom the two crowns will explain themselves, if such a right exists.

ART. VI. It would be advantageous for the companies of the two nations in the East-Indies, to abstain for ever from all military views and conquests, to restrain themselves, and mutually to assist each other in the business of commerce, which more properly belongs to them. The precise situation in which the two nations stand, is not known in France; wherefore the king, in order to confine himself, in that respect, to the object most useful, both for the present and hereafter, to the two companies, proposes to the king of England the treaty concluded between Sieurs Godeheu and Saunders, as a basis for the re-establishment of the peace of Asia.

ART. VII. The colonies of South America, in possession of the French, necessarily require negroes to cultivate them; the French settlements of Senegal and Goree supplied the wants of the French colonies in this respect. England, in keeping those settlements, would prejudice France, without procuring any positive advantages for herself; and the union which the two sovereigns so sincerely wish to establish between the two crowns, leaves no room to suppose that the court of London has any such intentions of mischief. Nevertheless, France, with a view to the blessings of peace, offers England the choice of the possessions of Senegal or Goree, meaning that one or the other possession shall be restored and guaranteed to the king by his Britannic majesty.

ART. VIII. The island of Belle-Isle and the fortress conquered by the arms of England, shall be restored to France, together with the artillery therein at the time of conquest.

ART. IX. In consideration of the 8th article to be granted by England, the king will cause his forces in Germany to evacuate the landgraviate of Hesse, the county of Hanau, as well as the town, which shall not be occupied by the troops of either power, leaving the navigation of the Maine free, and those parts of the electorate of Hanover occupied by the French troops; and these evacuations shall be preceded by a suspension of arms between the two crowns, which suspension of arms shall take place from the day of the ratification of the preliminaries or the article of the definitive treaty, not only in Germany, but in all parts of the world where France and England are at war.

ART. X. As the king is under an engagement with the empress queen, to stipulate nothing in his treaty of peace with England which may be disadvantageous to her imperial majesty, and as it was foreseen that, in case of a suspension between the French and British forces, the German troops in the pay of England might join those of the king of Prussia against the Austrian armies, the king, faithful to his engagements with his allies, and very far from intending to settle any thing to her prejudice, proposes to the king of England, that it may be agreed between them, that his Britannic majesty will undertake that no part of the forces which compose prince Ferdinand's army shall join the army of his Prussian majesty, or act offensively against the empress queen or her allies; and in like manner, no French forces, under any pretence, shall join the imperial army, or serve against the allies of Great Britain. To ascertain these positions, it shall be farther concluded, that after these evacuations, the army of the Upper Rhine, commanded by marshal Broglio, shall retire towards the Maine, the Necker, and the Rhine, occupying Frankfort; and that of the Lower Rhine, commanded by marshal Soubise, shall, on the other side, retire towards the Rhine, occupying Wesel and Guelders.

The countries belonging to the king of Prussia, on the Lower Rhine, have been conquered, and are actually governed in the name of the empress queen: the king would not undertake to evacuate them

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without the consent of her imperial majesty, and before the success of the negociations at the congress at Augsburg, which is to restore peace between the empress and the king of Prussia; but as it would be disadvantageous to the two crowns to maintain a considerable body of national forces in Germany, which, in time of peace, would remain in absolute inactivity, and by the conventions of the treaty, would become useless in every respect to the allies of France and England, the king undertakes, that from the time that his Britannic majesty do recal the English whom he has sent to his army in Germany, he will cause double the number of French forces in his majesty's army on the Upper and Lower Rhine to return to France, so that no French troops shall continue in those parts, but in proportion to those which the king of England shall keep in pay.

ART. XI. If before the execution of the treaty, one of the two powers should make any conquests in whatever part of the world it be, they shall be restored without hesitation, and without requiring any recompence.

ART. XII. The captures made at sea by England before the declaration of the war, are objects of legal restitution, and which the king will willingly submit to the justice of the king of England and the English tribunals; in fact, subjects, who under the faith of treaties, the law of nations, and in time of peace, follow their trade and navigation, cannot without injustice become sufferers by the misunderstanding subsisting in the cabinets of the two courts, before they have any intimation of it. Declarations of war are established by the law of nations, for no other purpose but to make public to the people the contests between their sovereigns, and to give them warning that their persons and fortunes are in danger of an enemy. Unless such declaration is agreed upon, there can be no public security; every individual would be in danger, or in fear, every moment that he stepped beyond the limits of his own country. If these principles are incontestible, nothing remains but to examine the date of the declaration of war, between the two crowns, and the date of the captures; all that has been taken prior to the declaration, cannot be adjudged lawful prize, without overthrowing the most salutary laws; it will be in vain to alledge that the French began hostilities, and that the captures were taken by way of reprisal. What connection can there be between supposed hostilities offered at Fort Duquesne, and the capture of trading vessels in the south part of America? These hostilities are the motives for the declaration of war; but the effects of that declaration is made public; and it would be unjust to make individuals sustain a loss, who are totally ignorant of the facts and circumstances of a latent hostility in a corner of the world which has occasioned a general war between the two nations.

This argument is deemed unanswerable in France, and it is on this footing that the king challenges the right of nations, to the end that some expedient may be agreed upon in the future treaty as a recompense for the captures made upon his subjects previous to the declaration of war, without entering into any discussion about reprisals which should be forgotten when the two courts draw near to an agreement. France consults nothing but the interest of the individuals who have been sufferers, and does not pretend to include the king's ships taken before the declaration in the settlement of the captures, as the loss of king's ships may be considered as a consequence of the motives of the war.

ART. XIII. Though during the course of the present war, the article of former treaties which guaranty the succession to the throne of Great Britain, according to the present establishment, has not been infringed, nevertheless, the king is well disposed to comprize that guaranty in the future treaty, if the king of England desires it.

ART. XIV. The prisoners made on each side, as well by sea as land, shall be set at liberty, and sent home without ransom, immediately on the ratification of the peace.

His Britannic majesty will readily perceive, that these articles are not drawn in the form of a treaty; they are only offered to him as articles explained in their full extent, which elucidate the sentiments of France, and put the two crowns in a condition to treat upon certain and distinct objects.

The Private MEMORIAL of France, of 15th July, 1761, relating to Spain.

As it is essential and agreeable to the desire of France and England, that the projected treaty of peace should serve as a basis for a solid reconciliation between the two crowns, which may not be liable

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to be interrupted by the interest of a third power, and the engagements which either one or the other may have entered into previous to their reconciliation, he proposes that the king of Spain shall be invited to guaranty the future treaty of peace between his majesty and the king of Great Britain. This guaranty will obviate all present and future inconveniences with regard to the solidity of the peace.

The king will not disguise from his Majesty, that the differences of Spain with England fill him with apprehensions, and give him room to fear, that if they are not adjusted, they will occasion a fresh war in Europe and America. The king of Spain has communicated to his majesty the three articles which remain to be discussed between his crown and the crown of Britain; which are,

1. The restitution of some captures which have been made during the present war upon the Spanish flag.

2. The privilege for the Spanish nation to fish upon the banks of Newfoundland.

3. The demolition of the English settlement made upon the Spanish territories in the bay of Honduras.

These three articles may be easily adjusted agreeable to the equity of the two nations; and the king earnestly wishes, that some accommodations may be thought on, to the satisfaction of the Spanish and English nations, with regard to these articles; but he cannot disguise from England the danger he apprehends, and of which he must necessarily partake, if these objects, which seem nearly to concern his Catholic majesty, should be the occasion of a war. His majesty therefore deems it a principal point of consideration in concluding a firm and advantageous peace, that, at the same time that desirable point shall be concluded between France and England, his Britannic majesty should terminate his differences with Spain, and agree to invite his Catholic majesty to guaranty the treaty which is to reconcile (pray Heaven for ever) his majesty and the king of England.

As to what remain, his majesty does not intimate his apprehension in this respect to the court of London, but with the most sincere and upright intentions to obviate every impediment which may arise hereafter to disturb the union of the French and English nations; and he desires his Britannic majesty, whom he supposes influenced by the same good wishes, freely to communicate his sentiments on so essential an object.

Mr. Bussy's Note to Mr. Pitt.

Since the Memorial of the propositions from France was formed, and at the instant that the courier was ready to set out for London, the king received the consent of the empress queen to separate peace with England, but upon two conditions:

1. To keep possession of the countries belonging to the king of Prussia.

2. That it shall be stipulated, that the king of Great Britain, neither in his capacity of king or elector, shall afford any succour, either in troops, or of any kind whatever, to the king of Prussia; and that his Britannic majesty will undertake that the Hanoverian, Hessian, Brunswickian, and other auxiliaries in alliance with Hanover, shall not join the forces of the king of Prussia, in like manner as France shall engage, on her part, not to yield succour of any kind to the empress queen nor her allies.

Both these conditions appear so natural and equitable in themselves, that his majesty could not do otherwise than acquiesce in them, and he hopes that the king of Great Britain will be ready to adopt them.

Mr. Pitt's Letter to Mr. Bussy, 24th July, 1761.

Sir; having explained myself, in our conference yesterday, with respect to certain engagements of France with Spain, relative to the disputes of the latter crown with Great Britain, of which your court never informed us, but at the very instant of making as she has done, her first propositions for the separate peace of the two crowns; and as you have desired, for the sake of greater punctuality, to take a note of what passed between us upon so weighty a subject, I here repeat, Sir, by his Majesty's order, the same declaration, word for word, which I made to you yesterday, and again anticipate you with respect to the most sincere sentiment of friendship and real regard on the part of his Majesty towards the Catholic king in every particular consistent with reason and justice. It is my duty to declare farther to you in plain terms, in the name of his Majesty, that he will not suffer the disputes with Spain to be blended, in any manner whatever, in the negociation of peace between the two crowns; to which I must add, that it will be considered as an

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affront to his Majesty's dignity, and as a thing incompatible with the sincerity of the negociation, to make farther mention of such a circumstance.

Moreover, it is expected that France will not, at any time, presume a right of intermeddling in such disputes between Great Britain and Spain.

These considerations, so just and indispensible, have determined his Majesty to order me to return you the Memorial which occasions this, as wholly inadmissible.

I likewise return you, Sir, as totally inadmissible, the Memorial relative to the king of Prussia, as implying an attempt upon the honour of Great Britain, and the fidelity with which his Majesty will always fulfil his engagements with his allies. I have the honour to be, &c.

(Signed) W. PITT.

The ANSWER of the British Court to Memorial of the French Propositions, 29th July, 1761.

His Britannic majesty will never recede from the entire and total cession on the part of France, without any new limits, or any exceptions whatever, of all Canada and its appurtenances: and his Majesty will never relax, with regard to the full and complete cession on the part of France, the isle of Cape Breton, and of all the other islands in the gulph or in the river St. Lawrence, with the right of fishing, which is inseparably incident to the possession of the aforesaid coasts, and of the canals or streights which lead to them.

2. With respect to fixing the limits of Louisiana, with regard to Canada, or the English possessions situate on the Ohio, as also on the coast of Virginia, it can never be allowed that whatever does not belong to Canada shall appertain to Louisiana, nor that the boundaries of the last province should extend to Virginia, or to the British possessions on the borders of the Ohio: the nations and countries which lie intermediate, and which form the true barrier between the aforesaid provinces, not being proper, on any account, to be directly or by necessary consequence ceded to France, even admitting them to be included in the limits of Louisiana.

3. Senegal, with all its rights and dependencies upon the river which bears its name, shall be ceded to Great Britain in the most full and ample manner; as also the island of Goree, so essentially connected with Senegal.

4. Dunkirk shall be reduced to the condition in which it ought to have been after the treaty of Utrecht, without which no peace can be concluded; and upon that condition only can his Majesty ever consent to enter on the consideration of the demand which France has made, viz. The restitution of the privilege granted by the thirteenth article of the said treaty, with certain limitations and under certain restrictions, for the subjects of France to fish and dry their fish on part of the banks of Newfoundland.

5. Though the titles by which the kingdom of Great Britain has, on many occasions, maintained its right to the islands of St. Lucia and Tobago, have never been refuted; and though his Majesty by force of arms has acquired possession of St. Dominica, and of the French colony established before the commencement of the war; nevertheless his Majesty, from that principle of moderation which is so becoming to kings, will consent to an equal partition of the four islands, commonly called the Neutral Islands, which partition shall be regulated in the ensuing treaty.

6. The island of Minorca shall be immediately restored in the condition it was at the time of its being taken, together with the artillery, &c. appertaining to that island.

7. France shall immediately restore and evacuate the conquests she has made over his Majesty's allies in Germany; that is to say, of all the states and countries appertaining to the landgrave of Hesse, to the duke of Brunswick, and to the electorate of Hanover, as also of Wesel, and of all the places and territories belonging to the king of Prussia, in possession of the arms of France. In a word, France shall make a general evacuation of all her conquests, on the side of Hesse, Westphalia, and its countries.

8. The King of Great Britain on his part, agrees to surrender to his most Christian majesty, 1. The important conquest of Belle-Isle. 2. His Majesty likewise consents to surrender to the most Christian king the opulent island of Guadaloupe, with that of Marigalante.

9. The treaty concluded between Messrs. Saunders and Godeheu, cannot be admitted as the basis of the re-establishment of the peace in Asia, because that provisional treaty has had no consequences, and because those provisions are by no means applicable to the present state of affairs in the Indies, by the final reduction of the

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possessions and settlements of the French company in the East Indies; but as the perfect and final settlement with regard to that country can only be made in conformity to certain rights absolutely appertaining to the English company, and as the King cannot justly dispose of their rights without their consent, it must necesarily be left to the companies of the two nations to adjust the terms of accommodation and reco iliation, according to those rules of reason and justice, which the state and circumstances of their affairs may require, and mutually point out; provided nevertheless that those conditions are not repugnant to the designs and equitable intentions of their sovereigns for the peace and reconciliation of the two crowns.

10. The demand of the restitution of the captures at sea before the declaration of war cannot be admitted; such a claim not being founded on any particular convention, and by no means resulting from the law of nations, as there is no principle more contestible than this, viz. that the absolute right of all hostile operations does not result from a formal declaration of war, but from the hostilities which the aggressor has first offered.

11. As the indispensible care which is due from his Majesty to his people, and the just and invincible motives which concern the preservation and security of his kingdoms, authorized by the most formal stipulations of solemn treaties (viz. those of Radstadt and the Barriere) and even by the express and irrevocable conditions of the cession of the Low Countries, will not allow France to retain possession of Ostend and Newport, the two places aforesaid shall be evacuated without delay, by the French garrisons; it is for this reason declared that the restitutions spoken of in the preceding articles of this Memorial, and particularly the convention which is to be framed and regulated with respect to the Indies, cannot take place till the aforesaid evacuation of Ostend and Newport shall be faithfully executed.

12. The cessation of arms between the two crowns shall be fixed and take place on the day of the ratification of the preliminaries, or of the definitive treaty, and all the articles relative to the cessation of hostilities shall be settled and take place, according to common usage in such cases, and as the circumstances in different parts of the world shall require.

13. His Majesty having, from the first overtures made on the part of France, declared, that in case the separate peace between the two crowns should be concluded, his Majesty would continue, as an auxiliary, faithfully to assist the king of Prussia, with efficacy and good faith, in order to accomplish the salutary purpose of a general pacification in Germany; it shall be free to Great Britain and France, to support, as auxiliaries, their respective allies in their particular contests for the recovery of Silesia, pursuant to the respective engagements which those crowns have entered into.

14. The prisoners taken on one side and the other, both by sea and land shall be released in the usual manner, saving the terms which may exist, by virtue of some cartel or some convention, which may have relation to this particular.

These articles are not digested into the form, nor in the detail of articles of peace: but it is hoped, that, with regard to essential points, this Memorial has that precision and perspicuity which leaves nothing doubtful, and which evidently demonstrates the sincerity and perseverance of his Majesty's disposition, with respect to his intentions and resolutions for the accomplishment of so great a blessing as that of an entire peace between the two crowns.

ULTIMATUM of France in Reply to that of England, of 5th of August, 1761.

The king renews the declaration which he made to his Britannic majesty, to the memorial of propositions for peace, which has been transmitted to Mr. Stanley, and to which the court of England has given no answer, either by word of mouth or in writing: his majesty again declares, that if the negociation entered into at Paris and at London, for the re-establishment of peace between the two crowns, has not the desired success, all the articles agreed to in that negociation by France, cannot be represented, on any occasion, as settled points, any more than the memorial of the month of March last, relative to the *Uti Possidetis*.

1. The king consents to cede Canada to England in the most extensive manner as specified in the memorial of propositions; but his majesty will not recede from the conditions he has annexed to the same memorial relative to the Catholic religion, and to the power, facility, and liberty of emigration for the ancient subjects of the king. With regard to the fishery in the Gulph of St. Laurence, the king means

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to maintain the immemorial right which his subjects have of fishing in the said gulph, and of drying their fish on the Banks of Newfoundland, as it was agreed by the treaty of Utrecht. As this privilege would be granted in vain, if the French vessels had not some shelter appertaining to France in the gulph, his majesty proposed to the King of Great Britain the restitution of the island of Cape Breton; he again proposes, either that island, or St. John, or such other port, without fortification, in the gulph, or within reach of the gulph, which may serve the French as ashelter, and secure to France the liberty of fishing, from whence his majesty has no intention to recede.

2. The king has in no part of his memorial of propositions, affirmed, that all which did not belong to Canada, appertained to Louisiana: it is even difficult to conceive such an assertion could be advanced. France, on the contrary, demands that the intermediate nations between Canada and Louisiana, as also between Virginia and Louisiana, shall be considered as neutral nations, independent of the sovereignty of the two crowns, and serve as a barrier between them. If the English minister would have attended to the instructions of M. Bussy on this subject, he would have seen that France agreed with England as to this proposition.

3. No answer has been given by England to the plain argument, That if Senegal cannot be enjoyed in security without Goree, England will make no great sacrifice in keeping Goree, and restoring Senegal to France. Upon this article, Mr. Stanley has acquainted the D. de Choiseul, that some expedients may be agreed on between the two crowns; in consequence of which, his majesty, out of regard to the blessing of peace, has authorized M. Bussy to treat concerning these expedients with the British ministry.

4. The court of London, when they mean to secure in pursuance of his majesty's consent, the conquests they pretend to maintain, readily rely on the memorial of *uti possidetis;* but they take no notice of that memorial when they advance claims at the expence of France. It cannot be denied, but that the state of the town of Dunkirk is not included in the *uti possidetis.*

According to the treaty of Utrecht, the demolition of Dunkirk was not assented to, as a compensation for the liberty of drying codfish on the Banks of Newfoundland; it is the cession of Newfoundland, on the part of France, which is the ground of that compensation: but the king, to testify to all Europe his sincere desire of peace, and to remove all obstacles which the enemies to peace may throw in the way, authorizes his minister at London to negociate concerning the state of Dunkirk, so soon as a convenient port shall be agreed upon in the Gulph of St. Laurence, or within reach of the gulph, which shall be ceded to France, to serve as a shelter for her fishing vessels.

5. France has refuted the title of England to the Antilles, which are pretended to be neutral: his majesty, nevertheless, from a principle of moderation, accepts of a partition of the said islands; but such partition cannot take place but in the form specified in the first memorial of the French propositions.

6. It seems as if England, by her propositions, offered the island of Belleisle as a compensation for the island of Minorca: as France does not allow the importance of the conquest of Belleisle, the two courts will retain their several opinions; England shall maintain her conquest, and France shall keep Minorca.

7. France is willing to evacuate, in consideration of the restitution to be made by England of the island of Guadaloupe and of Marigalante, the countries belonging to the landgrave of Hesse, to the duke of Brunswick, and to the electorate of Hanover, which are or shall be occupied by his majesty's forces, and of which the conquest is connected with the British war, since the rupture of the capitulation of Closter Seven, and which may be separated from the war of the empress-queen with the king of Prussia.

But as to what concerns Wesel, Gueldres, and other countries in Westphalia belonging to the king of Prussia, which are actually in the possession of the empress queen and where justice is administered in the name of her imperial majesty, the King cannot stipulate to surrender the conquests of his allies; and such an evacuation, neither in fact nor by right, can take place without the consent of the empress queen at the congress at Augsburgh; that congress being to assemble, in order to terminate the differences which have arisen in the empire, and particularly those which have occasioned the war between her imperial majesty and the king of Prussia.

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8. The king accepts of these conditions; and in consideration of the cessions made by France, in North America and Africa, as well as in regard to the settlement of Dunkirk, the restitution of the island of Guadaloupe and of Marigalante.

9. The French East India Company have fulfilled the conditions of the treaty made between Messrs. Godeheu and Saunders; that of England has not observed the same punctuality. However that may be, the king is willing to acquiesce in the 9th article of the *ultimatum* of England in relation to Asia.

10. The king persists, with regard to the captures made before the war, in the contents of the 12th article of the first propositions. M. Bussy is authorised to deliver a memorial expressly on this subject; and every one is persuaded in France that this object neither can nor ought to break off the negociation between the two crowns.

11. The empress-queen enjoys full sovereignty in the towns of Ostend and Newport; the king has only lent his forces to his ally, to secure those places. England has no right to impose laws upon the king and the empress, contrary to the will of the king and her imperial majesty, who do not in the least violate the treaties of the House of Austria with the States General. As to what remains, his majesty readily declares, that his intention never was to keep possession of the said places after the establishment of peace.

12. The 12th article of the *ultimatum* of England does not seem liable to any difficulties, while the terms of the intended suspension shall be observed and maintained with sincerity.

13. In answer to the declaration made by Mr. Stanley, that in case of a separate peace between France and England, his Britannic majesty would constantly continue, in the capacity of an auxiliary, to aid his ally, the king of Prussia, with all his power, and with the utmost integrity, in order to accomplish the happy issue of the war, and the pacification of Germany, the D. de Choiseul, in the name of the king, his master, has declared to Mr. Stanley, that his majesty, with the same view to the general pacification, will also support his faithful allies with all his forces, and to the utmost of his power, and will take every precaution which his approved sincerity and integrity shall suggest to him in order to prevent the separate peace of France with England from being prejudicial to them.

It is in consequence of these sentiments that the king, with the consent of his allies, is willing to stipulate, that he will grant no succour of any kind to his allies for the continuance of their war against the king of Prussia; but his majesty neither can nor will enter into such an engagement, unless his Britannic majesty will enter into the like agreement with respect to the king of Prussia.

The proposition of leaving France at liberty to send forces into Silesia, is unfavourable, from particular circumstances, to the interests of the empress, and consequently inadmissible.

The king, therefore, persists in the propositions contained in the 10th Article of his first memorial. All that can be negociated with respect to these points, must be the liberty of affording succours in money to the respective allies, so soon as it shall be positively ascertained, that no power shall be at liberty to furnish them any supplies of men, or warlike stores, under any denomination whatever.

14. The king accepts the 14th Article of the *ultimatum* of England.

It is hoped that the court of Great Britain will allow the precision of the answers to their *ultimatum*, as well as the readiness with which the king endeavours, even to his prejudice, to use all means to bring about a reconciliation with the king of Great Britain.

When M. Bussy presented this *ultimatum*, he accompanied it with the following Letter, in answer to that of Mr. Pitt, of the 24th of July.

M. Bussy's Letter to Mr. Pitt, 5th August, 1761.

Sir; I have acquainted my court with the Letter of the 24th of last month, with which your excellency honoured me, on returning the memorial I laid before you, in relation to the interests of the court of Spain with respect to England, and the note which I thought it my duty to communicate, with regard to the intention of the king my master, concerning the necessary steps to put a stop to the hostilities in Germany.

The king, Sir, orders me to acquaint your excellency, that as to what relates to the interest of the Catholic king, his majesty's precaution, expressed in the Memorial which I remitted to you, is in consequence of that sincerity which he professes constantly to adopt in the course of all his negociations. The memorial which your

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excellency has returned me, neither contains any menaces, nor any offer of mediation. No other sentiment can be inferred from it, than that of the sincere desire which his majesty entertains, that the projected peace between France and England may be firm and durable. Moreover, the king refers himself to his Catholic majesty concerning the manner in which this Memorial was received and remitted: but his majesty has charged me to declare to your excellency, that so long as Spain shall approve of it, his majesty will interfere with the interests of that crown, without desisting on account of a repulse from the power who opposes his good offices.

With respect to the matter of the note, likewise returned by your excellency, and which relates to the two necessary conditions of the proposed expedient for evacuating the countries subdued by his majesty's arms, his majesty explains himself fully on that article in the *ultimatum*, in answer to that of the court of London. His majesty has ordered me to declare further to you in writing, that he will rather sacrifice the power which God has given him, than conclude any thing with his enemies, which may be contrary to the engagements he has contracted, and that good faith in which he glories. If England will undertake to yield no succour to the king of Prussia, the king will engage, on the other hand, to afford none to his allies in Germany. But his majesty will not adopt the liberty of succouring his allies with a supply of men, because he is sensible of the disadvantage which the present situation of the armies might occasion to the empress-queen. His majesty may stipulate not to act for the benefit of his allies, but he neither can nor will consent to any condition which may be detrimental to them.

It remains for me to observe to your excellency, how greatly my court was astonished, as well at the style of the letter you wrote to me, as at the *ultimatum* of England. This style, which is so little conformable to the propositions of France, betrays the aversion of the court of London to peace. The king, who is very far from insisting on forms, when the happiness of Europe is at stake, has used every endeavour, in the answer to the *ultimatum*, which, without injury to the honour of his crown, were judged most effectual to recal the British court to sentiments of pacification; your excellency will judge, from the *ultimatum* of France, that I am ordered to acquaint you with what facility the king, forgetting the imperative style, so unfit for negociation, which England makes use of in her answers, enters into the views of the British court, and endeavours, by the sacrifices he makes, to engage them to adopt the stipulations of a reasonable peace.

If your excellency is desirous of having a conference with me on the subject of the *ultimatum*, I will attend your commands, and I shall be very earnest to testify the disposition of my court, to make a happy issue of the negociation on foot, as also the peculiar regard with which, &c.

(Signed) De Bussy.

Note delivered by the Count de Fuentes, the Spanish Ambassador in London, to Mr. Pitt.

The most Christian king, who wishes to make the peace, concerning which he proposed to treat with England, at once effectual and durable, entrusted his intentions with the king my master, expressing the pleasure with which he embraced that opportunity of acknowledging his sense of the reiterated offers which his Catholic majesty had made both to him and England, in order to facilitate a just and lasting reconciliation.

It is from these principles of sincerity, that the most Christian king proposed to the king my master the guaranty of the treaty of peace, as a measure which might be equally convenient to France and England, and at the same time assured him of his sincere intentions with respect to the sacrifices he proposed to make, in order to restore tranquillity to Europe, by an honourable and lasting peace.

Such a proceeding of his most Christian majesty could not but be highly acceptable to the king my master, who found it agreeable to his own sentiments, and to his desire of fulfilling on his part, with the most distinguished conformity, all the connections which unite them both by ties of blood and their mutual interest; and moreover, he perceived in the disposition of the king of France, that magnanimity and humanity which are natural to him, by his endeavours, on his side, to render the peace as permanent as the vicissitudes of human affairs will admit of.

It is with the same candour and sincerity, that the king my master expressed in confidence to the most Christian king, that he wished his Britannic majesty had not

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made a difficulty of settling the guaranty, on account of the grievances of Spain with England, as he has all the reason to conclude that his Britannic majesty has the same good intentions to terminate them amicably, according to reason and justice.

The confidence which the king my master reposed in France, gave that court room to testify to his Britannic majesty the sincerity of their intentions for the re-establishment of peace, since, by proposing the guaranty of Spain, they expressed their sincere desire of seeing the interests of Spain settled at the same time, which might one day rekindle the flames of a new war, which at present they wish to extinguish.

If the intentions of the most Christian king and the king my master did not seem fraught with sincerity, the king my master flatters himself, that his Britannic majesty will do him the justice to consider his in that light, since, if they were founded on any other principle, his Catholic majesty, giving full scope to his greatness, would have spoken from himself, and as became his dignity.

I must not omit to inform you, that the king my master will learn with surprise, that the Memorial of France could raise a sentiment in the breast of his Britannic majesty, entirely opposite to the intentions of the two sovereigns.

But his Catholic majesty will always be pleased, whenever he sees that they make that progress which he has ever desired, in the negociation of peace, whether it be separate between France and England, or general; as his sincere wishes are to make it perpetual, by obviating every source which might hereafter unhappily renew the war.

For this reason, the king my master flatters himself, that his Britannic majesty, animated with the same sentiments of humanity towards the public tranquillity, will express the same intentions of terminating the disputes of England with a power which has afforded such reiterated proofs of her friendship, at the same time that it is proposed to restore peace to all Europe in general.

MEMORIAL concerning the Vessels taken before the War.

The reclaim of the captures made by the English before the declaration of war, is founded on the treaties of Utrecht and Aix la Chapelle.

It is not necessary to contest the principle that the right of exercising hostilities does not always result from the formality of a declaration of war; but as it is impracticable for two princes, who make war on each other, to agree between them which is the aggressor with regard to the other, equity and humanity have dictated these precautions, that where an unforeseen rupture happens suddenly and without any previous declaration, foreign vessels, which, navigating under the security of peace and of treaties, happen at the time of the rupture to be in either of the respective ports, shall have time and full liberty to withdraw themselves.

This wise provision, so agreeable to the rules of good faith, constitutes a part of the law of nations, and the article of the treaty which sanctifies these precautions ought to be faithfully executed, notwithstanding the breach of the other articles of the treaty, which is the natural consequence of the war.

The courts of France and Great Britain used this salutary precaution in the treaties of Utrecht and Aix la Chapelle; in the first, by the nineteenth article of the treaty of peace, and in the second of the treaty of commerce: in the second, by the third article, which renews and confirms the first.

If these treaties allow a protection to the respective subjects who may have ships in the ports of either of the powers, because, having no opportunity of knowing that a rupture has fallen out, they sailed under the security of peace, and under the faith of treaties; by a parity of reason, all the other subjects who are not inhabitants of the respective ports, who have ships at sea, should enjoy the same security for their vessels, in whatever part of the sea they should be sailing, otherwise it would follow, that the sovereigns provide for the preservation of one part of their subjects from the miseries of a sudden rupture, to which they expose the rest, which is absolutely repugnant to the humanity of sovereigns, and contrary to right reason.

It is upon this principle, that the king of France restored to England the English vessels which were found in the ports of France, at the time of the rupture, or taken at sea before the declaration of war.

If his majesty had not caused those vessels to be restored, his Britannic majesty might have alledged, that he retained the French vessels by way of reprisals; but the punctuality of France in conforming

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to the treaties of Utrecht and Aix la Chapelle, and to the principles resulting from thence, give England no pretence for refusing to fulfil engagements which are reciprocal.

The court of France, therefore, does not doubt but that the court of England will agree to order the restitution of the ships taken by the English from the French, before the declaration of the war.

Mr. Pitt's last LETTER to M. Bussy, dated the 15th of August, 1761.

Sir; I made the King my master acquainted with the Memorial, with which, by order of his most Christian majesty, you accompanied the *ultimatum* of the court of France: his Majesty perceives from these two pieces, with that regret with which the love of peace inspires him, that the happy moment to put an end to so many miseries is not yet come.

As to what relates to the style of the *ultimatum* of England, in answer to the Memorial of Propositions from France, as likewise of the Letter which I addressed to you by his Majesty's order, upon returning the two papers relative to Spain and the king of Prussia, as totally inadmissible, the King orders me to acquaint you, Sir, that his Majesty adheres both to the form and substance of those two pieces, in which his dignity concurred with his justice and good faith, leaving all the world to judge which of the two courts have shewn an aversion to peace during the course of that negociation; whether it be that court, which, from a principle of candour, not by way of assuming an imperative tone, has always endeavoured to give open answers, in order to shorten delays, by obviating misunderstandings, and to avoid the reproach of having acted delusively even with an enemy, who, in the conditions of peace, so far from making an ill use of her prosperity, has not even insisted on all those rights which the *uti possidetis*, and the Memorial of France of the 26th of March, gave her: who, moreover, proposes, that after the conclusion of peace between the two crowns they shall respectively be at liberty, with regard to the contest concerning Silesia, to fulfil the engagements they have contracted with their allies; it belongs, therefore, Sir, to Europe, to judge whether this is the court which has shewn an aversion to peace, or whether it is not that, which, after so many variations and delays on her part, arbitrarily continues to insist on objects in America which we have a right to by the *uti possidetis*; and which would make a direct attempt on the essential rights of our conquests in Canada and its appurtenances in the gulph of St. Laurence; which, in Germany, not only refuses to give up her conquests, gained over his Majesty's allies, as a just compensation for the important restitutions with which his Majesty is willing to accommodate France, but even pretends to impose an obligation on his Majesty not to fulfil the engagements of his crown towards the king of Prussia; which, moreover, not satisfied with throwing so many insuperable obstacles in the way to peace, has not scrupled to interpose new perplexities in opposition to this precious blessing for which the nations sigh, by intermixing, too late, matters so foreign to the present negociation between the two crowns, as are the discussions between Great Britain and Spain.

Such, Sir, being the conduct of the two courts, the King perceives, with regret, that the peace so much desired is far distant, and that at this very moment, the court of France is willing to entrust it to the uncertain fate of farther events.

If this is the intention of France, his Majesty relies on the same providence which has hitherto blessed his arms, and the sincerity of his intentions towards peace; and hopes, that the course of events, accomplishing what his Majesty's moderation has in vain attempted, will reveal the court of France to a more favourable disposition.

Nethertheless, Sir, although I am not at liberty to confer with you concerning the *ultimatum* of your court separately, yet if you desire, Sir, that we should have a conference on the two *ultimatums* of our courts together, I will be at your command when you think proper, that I may have the honour to learn what you have to communicate to me with respect to the intentions of your court. I have the honour to be, &c.

(Signed) W. PITT.

M. Bussy's ANSWER to Mr. Pitt, dated 16th of August, 1761.

Sir, I received the letter which your excellency did me the honour to write to me on the 15th of this month. I will not undertake to discuss the principal object of it, without submitting it to my court, whether it is proper to make a reply, and what that reply should be. I will confine

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myself, Sir, to assure you, that I accept, with pleasure, the offer your excellency makes me, of a conference on the subject of the two *ultimatums* of our courts; as you are out of town, and as I would not trespass on the moments you devote to the establishment of your health, I refer myself to you entirely to appoint the day and hour when I may come to confer with you.

Nothing can be more true than the assurance I make to you of the respectful attachment with which you have inspired me, and with which I have the honour to be, &c. (Signed) De Bussy.

The Answer of the British Minister to the Ultimatum of France, delivered to M. Bussy, on the 16th of August, 1761.

The most Christian king having repeatedly declared, in the *ultimatum* of the court of France, remitted to Mr. Pitt, by M. Bussy, as well as in the Memorial of the propositions of peace, which was remitted by the duke de Choiseul to Mr. Stanley, that if the negociation entered upon between the two crowns, has not the desired effect, all the articles conceded in that negociation by France, cannot be considered in any case as points agreed upon, any more than the Memorial of the month of March last, in relation to the *uti possidetis*; the King declares, in return, that if the concessions his Majesty has made to bring about peace, should not be accepted by his most Christian majesty, the important restitutions offered to France, as well as the other circumstances herein-after expressed, cannot for the future be considered as given up.

Article I. The King will not desert his claim to the entire and total cession of all Canada and its dependencies, without any new limits or exceptions whatever; and likewise insists on the complete cession of the islands of Cape Breton, and of the other islands in the gulph and river of St. Laurence.

Canada, according to the lines of its limits, traced by the marquis de Vaudreuil himself, when that governor surrendered the said province by capitulation to the British general, sir J. Amherst, comprehends on one side the lakes Huron, Michigan, and Superieur; and the said line drawn to the Red Lake, takes in, by a serpentine progress, the Ouabachi, as far as its junction with the Ohio, and from thence extends itself along the latter river, as far inclusively as its influx into the Mississippi.

It is in conformity to this state of the limits made by the French governor, that the King claims the cession of Canada, a province which the court of France moreover has offered anew by their *ultimatum* to cede to his Britannic majesty, in the most extensive manner as expressed in the Memorial of propositions of peace, of the 13th of July.

As to what concerns the public profession and exercise of the Roman Catholic religion in Canada, the new subjects of his Britannic majesty shall be maintained in that privilege without interruption or molestation: and the French inhabitants, or others, who may have been subjects of the most Christian king in Canada, shall have full liberty and power to sell their effects, provided they dispose of them to the subjects of his Britannic majesty, and to transport their property as well as their persons, without being restrained from their emigration under any pretence whatever; (unless in case of debt, or for breach of criminal laws:) it being always understood, that the time granted for the said emigration shall be limited to the space of one year, to be computed from the day of the ratification of the definitive treaty.

Art. II. As to what respects the line to be drawn from Rio-Perdido, as contained in the note remitted by M. Bussy of the 18th of this month, with regard to the limits of Louisiana, his Majesty is obliged to reject so unexpected a proposition, as by no means admissible in two respects.

1. Because the said line, under colo of fixing the limits of Louisiana, annexes vast countries to that province, which, with the commanding posts and forts, the marquis de Vaudreuil has, by the most solemn capitulation, incontestibly yielded into the possession of his Britannic Majesty, under the description of Canada, and that consequently, however contentious the pretensions of the two crowns may have been before the war, and particularly with respect to the course of the Ohio, and the territories in that part, since the surrender of Canada, and the line of its limits has been traced, as aforesaid, by the marquis de Vaudreuil, all those opposite titles are united, and become valid without contradiction, to confirm to Great Britain, with all the rest of Canada, the possession of those countries on that part of the Ohio which have been heretofore contested.

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2. The line proposed to fix the bounds of Louisiana cannot be admitted, because it would comprise in another part, on the side of the Carolinas, very extensive countries and numerous nations, who have always been reputed to be under the protection of the King, a right which his Majesty has no intention of renouncing; and then the King, for the advantage of peace, might consent to leave intermediate countries under the protection of Great Britain, and particularly the Cherokees, the Creeks, the Chicasaws, the Chactaws, and another nation, situate between the British settlements and the Mississippi.

ART. III. The King refers to the third article of the *ultimatum* of England, concerning the cession of Senegal and its dependencies, as well as the island of Goree, in the most ample manner, as expressed in the said article; and his Majesty renews the declaration which has been made by Mr. Stanley, that if the court of France would suggest any reasonable expedient to provide themselves with negroes, which may not be too detrimental to the interests of the British subjects in Africa, he will willingly enter upon a discussion of this subject.

ART. IV. The important privilege granted by the 13th article of the treaty of Utrecht, under certain limitations and restrictions, to the subjects of France, for fishing and drying their cod-fish on a certain part of the banks of Newfoundland, has not been refused by Great Britain, but connected with a reciprocal satisfaction on the part of France, with regard to the indispensable object of Dunkirk, which the King has required, and still requires; it is, therefore, on condition that the town and port of Dunkirk shall be put in the condition it ought to have been in by the last treaty of Aix-la-Chapelle, that his Majesty consents to renew to France the privilege of fishing and of drying their fish by virtue of the treaty of Utrecht, upon the aforesaid district of Newfoundland.

As to the demand which his most Christian majesty has farther made, that his subjects may fish in the Gulph of St. Laurence, as also to have a port there without fortifications, and subject to the inspection of England, as proposed on the part of the D. de Choiseul, in his conferences with Mr. Stanley on that head, which port should merely serve as a shelter to the fishing boats of the French nation which shall land there; the King, to manifest to his most Christian majesty, and to the whole world, the sincerity of his intentions with regard to peace, will consent,

1. To grant the French subjects the privilege of fishing in the Gulph of St. Laurence, upon this express condition, that is to say, that the said French subjects shall abstain from that particular fishery on all the coasts appertaining to Great Britain, whether on the continent or on the islands situated in the said Gulph of St. Laurence, which fishery the proprietors only of the said coasts have constantly enjoyed and always exercised; saving always the privilege granted by the 13th article of the treaty of Utrecht, to the subjects of France, to fish and dry their cod-fish on a part specified on the banks of Newfoundland, which privilege is proposed to be renewed to France as aforesaid.

2. The King will consent to cede to his majesty the isle of St. Pierre with its ports, which isle, with respect to that part of Newfoundland situate between the bay of Placentia, and the bay of La Fortune, stands east-south-east, and its port opens to the north east, the interior part of which port is called Bourgway; the island of St. Pierre, which the King is willing to cede, is divided by a little streight from another island known by the name of Maquelon, or of Michelon, which lies to the north of the said isle of St. Pierre.

To the cession of the said isle, as above mentioned, his Majesty annexes four indispensable conditions.

1. That France, on no pretence, nor under any denomination whatever shall erect any fortifications, either in the said isle, or in its port, and that she shall not keep any troops there, nor maintain any military establishment whatever.

2. That the said isle and the said port shall only serve as a shelter to the fishing vessels of the French nation, and that France shall not suffer the vessels of any other nation whatever to partake of the convenience of this shelter for the fishing boats.

3. That the possession of the isle of St. Pierre as aforesaid, shall not be constituted in any case, to confer, transmit, or participate in any manner whatever the least right or power of fishing or of drying cod-fish in any part of the coast of Newfoundland, beyond the district expressly stipulated and fixed for that purpose by the 13th article of the treaty of Utrecht, that is to say, "a Loco Cap Bonavista

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nuncupato, usque ad extremitatem ejusdem Insulæ septentrionalem, indeque ad Latus occidentale recurrendo usque ad Lacum Pointriche appellatum."

4. That in virtue of the cession of the said island as aforesaid, an English commissary shall be allowed to reside there, and the commander of the British squadron at Newfoundland shall be at liberty from time to time to inspect the said isle and the said port, to see that the stipulations above expressed are punctually observed.

ART. V. The proposition of an alternative suggested by the court of France, in relation to the isles of Tobago, St. Lucia, Dominica, and St. Vincent, commonly called neutral islands, is by no means admissible. The King, however, from a principle of moderation, continues his inclinations to agree to an equal partition of the said four islands, to be ascertained in the future treaty between the two crowns.

ART. VI. The King consents to restore to his most Christian majesty,

1. The important conquest of Belle-isle, with the artillery, &c. which was therein at the time of taking the said island.

2. His Majesty likewise agrees to restore to the most Christian king the fertile and wealthy island of Guadaloupe, with that of Marigalante, with the artillery, &c. which was therein at the time of taking the said islands.

ART. VII. The island of Minorca shall be restored to his Britannic majesty, as likewise Fort St. Philip, in the condition it stood, and with the artillery therein, &c. at the time of taking the said island and fort.

ART. VIII. As to what regards the restitution and evacuation of the conquests made by France over the King's allies in Germany, and particularly of Wesel, and the other territories of the king of Prussia, his Majesty persists in his demand relative to that subject in the 7th article of the *ultimatum* of England; it being always understood, that all the places belonging to his Majesty's allies in Germany shall be restored, with the artillery, &c. found in them at the time of taking the said places.

ART. IX. With regard to the succour to be afforded to the king of Prussia on the part of the British crown, as an auxiliary, after the conclusion of the separate treaty between Great Britain and France, his Majesty remains in the same inflexible resolution which he declared at the first overture of the present negociation, that he never will desist from giving constant succour to the king of Prussia, as an auxiliary, with efficacy and good faith, in order to attain the salutary end of a general pacification in Germany. With this view, his Majesty, far from proposing to leave France at liberty to send armies into Silesia, without being limited to the number stipulated in her actual engagements with the court of Vienna, (a circumstance not to be found in any part of the *ultimatum* of England) has uniformly declared, as the thirteenth article of the said *ultimatum* professes, that Great Britain and France shall be at liberty to support their respective allies and auxiliaries, in their particular contest for the recovery of Silesia, according to the engagements entered into by each crown.

The King declares at the same time, that his Majesty has neither the intention nor the authority to take upon him to inhibit and forbid any foreign troops from entering into the service and pay of the king of Prussia, however his Majesty might be inclined to consent not to furnish, but by means of subsidy, those supplies which Great Britain shall judge convenient to grant his Prussian majesty, in pursuance of her engagements.

ART. X. With regard to the captures made after the commencement of hostilities, and before the declaration of war, the King continues of opinion, that such a demand on the part of France is neither just nor maintainable, according to the most incontestible principle of the rights of war and of nations.

ART. XI. Concerning the evacuations of Ostend and Nieuport, the King cannot but refer to the most express and irrevocable stipulation of the most solemn treaties expressed in the 11th article of the *ultimatum* of Great Britain, as also to his declaration relative to that subject: and his Majesty relies on the sincerity of the declaration on the part of France: that is to say, that the intention of his most Christian majesty never was to keep possession of the aforesaid places after the return of peace.

ART. XII. In regard to the cessation of hostilities, the King persists, in every respect, in the same intentions, declared in the 12th art. of the British *ultimatum*.

ART. XIII. As to what concerns the French East India Company, he can only refer to the 9th article of the *ultimatum* of England, with regard to which no disagreement seems to subsist.

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ART. XIV. As to the prisoners of war, the two courts seem to agree perfectly on that head.

The court of France cannot but perceive from this answer, the sincerity of his Majesty's intentions, as well as the moderation which directs his Majesty towards the means of reconciliation with the most Christian king.

(Signed) H. STANLEY.

The last MEMORIAL of France to England, delivered to Mr. Pitt, by M. Bussy, on the 13th of September, 1761.

The king accepts the declaration of the king of England contained in the preamble of the answer, and renews that which he before made to his Majesty on this head, in such manner that it is concluded between the two courts finally and without ambiguity, that if peace is not the result of the present negociation, all that has been said, written, and negociated between the two crowns, since the Memorial of the 26th of March inclusive, to the moment of the rupture, shall be void and of no effect, and shall not be brought as an argument in favour of either of the parties, in any future negociation of peace.

ART. I. The king has declared in his first memorial, and in his *ultimatum*, that he will cede and guaranty to England, the possession of Canada, in the most ample manner; his majesty persists in that offer, and without discussing the line of its limits marked in a map presented by Mr. Stanley; as that line, on which England rests its demand, is without doubt the most extensive bound which can be given to the cession, the king is willing to grant it.

His majesty had annexed four conditions to his guaranty: it seems that England agrees to them; the king only conceives that the term of one year for the sale of the French effects and for the emigration is too short, and his majesty desires that it may be agreed to extend the term of one year to eighteen months at least.

As the court of England has added, to the first article of their answer to the entire and total cession of Canada, as agreed between the two courts,' the word 'dependencies,' it is necessary to give a specific explanation of this word, that the cession might not in the end occasion difficulties between the two courts with regard to the meaning of the word dependencies.

ART. II. The first paragraph with respect to the limits of Louisiana, contained in the second article of the answer from England, is agreed to by France. The second paragraph is neither just nor explicit, and it is finally proposed to express it in the following terms:

"The intermediate savage nations between the lakes and the Mississippi, and within the line traced out, shall be neuter and independent, under the protection of the king; and those without the line, on the side of the English shall be likewise neuter and independent, under the protection of the king of England. The English traders also shall be prohibited from going among the savage nations beyond the line on either side; but the said nations shall not be restrained in their freedom of commerce with the French and English, as they have exercised it heretofore."

ART. III. Although France is sensible how opposite it is to principles of conciliation, that the party which cedes should propose to the party who has conquered, and would maintain the cession of possessions which are not perfectly known, though there is no doubt but that the manner which England requires is liable to innumerable difficulties, nevertheless, the king, to testify his acquiescence in every expedient which may conciliate the two crowns, is willing to declare to England, that he will guaranty the possession of Senegal and Goree to that crown, provided England, on her part, will guaranty the possession of the settlements of Anamaboo and Akra, on the coast of Africa.

ART. IV. The fourth article of the answer includes a variety of objects, each of which requires a particular explanation.

England always endeavours to connect the liberty of fishing and drying the fish on part of the coast of Newfoundland, granted by the fifteenth article of the treaty of Utrecht, with the 9th article of the same treaty, which stipulates the demolition of Dunkirk: it is given in answer to England for the fourth and last time, that those two stipulations of the treaty of Utrecht have nothing in common between them, unless that they are both comprised in the said treaty; and that the concession expressed in favour of the French in the thirteenth article of that treaty, is a compensation for the cession of Newfoundland and Annapolis Royal, made on the part of France to England by the twelfth and thirteenth articles of the same treaty.

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But to the end that the two courts may clearly understand each other on this head, and for the furtherance of peace, the king agrees to demolish the works which have been made for the defence of the port of Dunkirk since the beginning of this war, to fill up the bason which contains the ships of war, and to destroy the buildings belonging to the rope-yard: but at the same time his majesty will leave the trading port, which will not receive a frigate, subsisting for the good of England, as well as for the benefit of France. She will also undertake not to suffer any maritime military establishment in that port: but the cunette shall be left standing round the place for the salubrity of the air, and the health of the inhabitants.

As to the fishery and the drying of fish on the Banks of Newfoundland, the king requires that the thirteenth article of the treaty of Utrecht be confirmed by the present treaty.

Concerning the condition proposed by England, with respect to the liberty of fishing in the gulph of St. Laurence, France agrees, that beyond the port of Newfoundland, specified by the thirteenth article of the treaty of Utrecht, the French (unless in case of accidents) cannot land on the coasts appertaining to the English in the gulph of St. Laurence, whether to dry their fish, or to spread their nets on the said coasts; but without these two exceptions, the French shall be at liberty to fish, without molestation, in all parts of the said gulph of St. Laurence.

With respect to the cession of the island of St. Pierre, the smallness of that island, and its situation near Plaisance, make the king of opinion that such a shelter will be illusory, and will rather serve to breed contests between the two nations, than procure accommodations for the fishery of the French subjects.

The king had required the island of Cape Breton, or the island of St. John; his majesty had even restrained himself to the little island of Conceau, and now makes the same proposition to his Britannic majesty; or if the King of England, for reasons unknown to France, cannot agree to the cession of the isle of Conceau, it is proposed to add to the cession of St. Pierre, the islands of Maquelon or Michelon, two islands, of which one, which is St. Pierre, is but three leagues wide, and Michelon but two. However inconsiderable these two settlements may be, which do not properly make one, the king will accept of them, and will even oblige himself,

1. That neither in one or the other island, or in that of Conceau, if England cedes the latter, there shall be any military establishment; France will only maintain a guard of fifty men to enforce the police, which it will be necessary to maintain in those islands.

2. As far as possible, considering the weak guard of the police, the king will prevent all foreign vessels, even English, from landing at those islands.

3. France does not pretend to fish and dry their fish on the coast of Newfoundland, but in pursuance of the stipulation of the thirteenth article of the treaty of Utrecht, provided it be understood that the French may fish and dry their fish on the coasts of St. Pierre and Michelon.

4. Lastly, the king allows, that an English commissary shall be resident in the said island, to be witness to the punctuality with which the stipulated condition of the treaty shall be observed.

Art. V. The partition of the four neutral islands must be specified between the two courts in the preliminaries; France accepts the partition of those islands proposed by England, provided that St. Lucia be declared to make part of the partition to be regulated in favour of France.

Art. VI. The king, without entering into any discussion of the sixth article, agrees to this article as well as to the seventh.

Art. VIII. The king, with regard to the eighth article, refers to the seventh article of his Ultimatum. It is not in his majesty's power to evacuate countries which appertain to his ally, the empress queen.

Art. IX. The ninth article of the answer of England requires some explanation, for it is worded in such a manner as not to convey any precise meaning; it supposes respective engagements on the part of the king towards the empress, and on the part of England towards the king of Prussia, to which the two courts are strangers. France does not suppose that the King of England can hinder the allies of his crown, such as the sovereigns of Hanover, Cassel, and Brunswick, from joining their forces with those of the king of Prussia; but without entering into a needless discussion, the king is resolved, for the sake of peace, to make the most important sacrifices, and at the same time unalterably determined, to grant nothing

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in the future treaty of peace, which may be contrary to the stipulations he has entered into with his allies. It is with their consent, and with mutual concert, that the king proposes to England, in relation to the war in Westphalia, the tenth article of the memorial of his Majesty's propositions, and the seventh and thirteenth articles of the French *ultimatum*. The king abides by these articles, in answer to the eighth and ninth articles of the answer of England; not refusing, nevertheless, to treat of any fresh propositions which England may make on these heads, which shall be communicated to his allies, and to which his majesty will listen, with the consent of the empress, if they are not contrary to his majesty's engagements with that princess.

ART. X. France is of opinion, that her proposition in relation to the captures in which the king's subjects are interested, are so just, that she abides by them, and refers to the twelfth article of his propositions on that head.

ART. XI. The king, after signing of the treaty, even of the preliminaries, will give a declaration under his hand to the king of England, by which his majesty will declare, that his intention never was to bring the towns of Ostend and Nieuport under his dominion.

ART. XII. Provided that the terms of the cessation of hostilities may not be prejudicial to either crown, France will agree to them.

ART. XIII. France adopts the negociation between the India companies of the two nations, on condition, that the negociation shall be concluded at the same time with that between the two crowns, and to that effect, each company shall enter upon their negociation without delay, and shall name commissaries for that purpose.

ART. XIV. This article will meet with no difficulty.

The court of England will do justice to the considerable accommodations which the court of France has testified in this Memorial, towards a reconciliation between the two crowns.

Mr. Stanley's LETTER to the Duke de Choiseul, of the 20th September, 1761.

Sir; I have the honour to inform your excellency, pursuant to the orders I received yesterday from my court, that as the court of France has not agreed to accept the propositions contained in the last answer from the British court, the King my master has ordered me to request a passport of you, to return to England; my court expects also, that M. Bussy will, on his part, receive the same orders.

As the state of war has no influence over the personal sentiments of the King of England, with regard to their most Christian majesties, he is persuaded that they will take part in the event of his marriage, and I have letters in my hands, by which he communicates that happy event to their majesties. I have the honour to send your excellency the copies, and I take the liberty, Sir, to consult your better intelligence, to inform myself of the most suitable manner of remitting these letters, in pursuance of my credentials, and according to the established custom of your court. I have the honour to be, &c.

(Signed) H. STANLEY.

The Duke de Choiseul's ANSWER to Mr. Stanley, the 20th September, 1761.

Sir; the king has ordered me to expedite the passports which are necessary for your return to England; you will find them annexed. M. Bussy had orders to demand an eclaircissement with respect to the last answer from England, and to return to France, if those eclaircissements were not favourable. They have certainly been otherwise, since your court has anticipated his return by your recal. However it be, Sir, his majesty hopes that some more happy opportunity will produce more effectual inclinations to peace, and he has charged me to observe to you, that you may assure the king of England, that he will always find him disposed to renew the negociation, and to consent to equitable conditions, which may establish a firm union between the two crowns.

The king most sincerely takes part in the marriage of the king of England; if you will send me the letters from his British majesty, I will remit them to their majesties. I have the honour to be, &c.

(Signed) Le Duc de CHOISEUL.

FIRST SESSION
OF THE
TWELFTH PARLIAMENT
OF
GREAT BRITAIN.

Meeting of the New Parliament.] November 3, 1761. This day the New Parliament met. His Majesty, being seated on the throne, adorned with his crown and

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regal ornaments, and attended by his officers of state (the Lords being in their robes); commanded the gentleman usher of the black rod to let the Commons know, "It is his Majesty's pleasure, that they attend him immediately in this House."

Who being come: the Lord Chancellor said,

"My Lords, and Gentlemen,

"His Majesty has been pleased to command me to acquaint you, that he will defer declaring the causes of calling this parliament till there shall be a Speaker of the House of Commons: And therefore it is his Majesty's pleasure, that you, gentlemen of the House of Commons, do immediately repair to the place where the Commons usually sit, and there chuse a fit person, to be your Speaker; and that you present such person who shall be so chosen, to his Majesty here for his royal approbation, on Friday next, at one of the clock."

Then his Majesty was pleased to retire; and the Commons withdrew.

List of the House of Commons.] The following is a List of the Members of the House of Commons:

A List of the House of Commons in the Twelfth Parliment of Great Britain, which met at Westminster, November 3, 1761.

Bedfordshire. Francis marquis of Tavistock, only son of the duke of Bedford; died, a new writ ordered March 24, 1767.--John earl of Upper Ossory, made ranger of Rockingham forest, and lord lieutenant and custos rotulorum of this county.--Robert Henley Ongley.

Bedford. Richard Vernon, made one of the clerks comptrollers of his majesty's household; a new writ ordered April 18, 1764, he was re-elected.--Francis Herne.

Berkshire. Arthur Vansittart.--Henry Pye.

Windsor. Augustus Keppel; next brother to the earl of Albemarle, a captain in the navy, and in 1760, made a colonel of marines.--John Fitzwilliam; made colonel of a regiment of horse in 1760, and a lieutenant general in 1761.

Reading. Sir Francis Knollys.--John Dodd.

Wallingford. Sir J. Gibbons; made a knight of the bath in 1761.--John Harvey; died, a new writ ordered, January 10, 1765.--Sir George Pigot; created lord Pigot of Pateshall in Ireland, December 27, 1765.

Abingdon. John Moreton; made chief justice of Chester, a new writ ordered December 10, 1762; re-elected.

Buckinghamshire. Sir W. Stanhope.--Richard Lowndes.

Buckingham. Geo. Grenville; made one of his majesty's principal secretaries of state, a new writ ordered, June 2, 1762, he was re-elected. Made first commissioner of the admiralty; a new writ ordered, November 25, 1762, he was re-elected. Made first commissioner of the treasury, and chancellor and under treasurer of the Exchequer; a new writ ordered, April 19, 1763, he was re-elected.--James Grenville; cofferer of the household; made one of the vice treasurers of Ireland; a new writ ordered, November 11, 1766, he was re-elected.

Chipping Wycombe. W. lord viscount Fitzmaurice; made aid-du-camp to his majesty; succeeded as earl of Shelburne, &c. a new writ ordered, November 28, 1761.--Isaac Barré; a captain, with the rank of major in the army; made lieutenant-colonel commandant of a regiment of foot; made governor of Stirling castle.--Robert Waller.

Aylesbury. John Wilkes; expelled the House for writing a false, scandalous, and seditious libel; a new writ ordered, January 20, 1764.--Anthony Bacon; a merchant in London.--Welbore Ellis; one of the vice-treasurers of Ireland; appointed secretary at war; a new writ ordered, December 17, 1762, he was re-elected.

Agmondesham. William Drake.--Bennet Gerrard; succeeded his brother as baronet; died, a new writ ordered, November 25, 1767.--John Affleck.

Wendover. Richard Cavendish; chancellor of the diocese of Durham.--Verney Lovett; made steward of the manor of East Hendred in the county of Bucks; a new writ ordered, December 18, 1765.--Edmund Burke.

Great Marlow. William Clayton.--William Matthew Burt.

Cambridgeshire. John marquis of Granby; made lord lieutenant and custos rotulorum of Derbyshire in February 1763. In November 1763, made master-general of the ordnance, and in 1766, commander in chief of the army in Great Britain.--Philip lord viscount Royston; succeeded his father as earl of Hardwicke; a new writ ordered, March 12, 1764.--Sir John Hinde Cotton.

Univ. of Cambridge. Tho. Townshend.--Edward Finch; made keeper of his

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majesty's private roads. &c. a new writ ordered, January 9, 1761, he was re-elected.

Town of Cambridge. Soame Jenyns.--C. Sloan Cadogan; made surveyor of his majesty's gardens and waters; a new writ ordered, April 18, 1764, he was re-elected.

CHESHIRE. Thomas Cholmondeley.--Samuel Egerton.

Chester. Thomas Grosvenor; second son to sir Robert Grosvenor, bart.--R. Wilbraham Bootle.

CORNWALL. Sir John St. Aubin.--James Buller; died, a new writ ordered May 3, 1765.--John Molesworth; eldest son of sir John Molesworth, bart. to whose title he succeeded in this parliament.

Launceston. Peter Burrell.--Humphry Morrice; appointed comptroller of his majesty's household; a new writ ordered, December 20, 1762, he was re-elected, and sworn of the privy council; appointed warden of the stannaries, and steward of the duchy of Cornwall; and the House resolved, April 19, 1763, that the same do not vacate his seat in parliament.

Leskard. Philip Stevens; first secretary to the admiralty, and to the charity for sea officers widows.--Anthony Champion.

Lestwithiel. James Edward Colleton.--George Howard; colonel of a regiment of dragoons, and a lieutenant-general; made governor of the island of Minorca; a new writ ordered, March 27, 1766.--Francis lord viscount Beauchamp; eldest son of the earl of Hertford.

Truro. George Boscawen; second brother to lord viscount Falmouth; colonel of a regiment of foot, and lieutenant-governor of the Scilly islands; made a major-general.--John Boscawen; made a major-general; died, a new writ ordered, June 3, 1767.--Edward H. Boscawen; eldest son to the late admiral Boscawen.

Bodmyn. John Parker; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, May 17, 1762, he was chosen for the county of Devon.--Sir Christopher Treise.--George Hunt.

Helston. Francis Godolphin; on the death of Francis earl of Godolphin, he succeeded as lord Godolphin of Helston; a new writ ordered, January 26, 1766.--William Evelyn; major to the first regiment of foot guards, and a colonel in the army.--John Evelyn; on the dissolution of the last parliament he was made one of the clerks of the board of green cloth, and in 1763 succeeded his brother as a baronet.--Wm. Wyndham.

Saltash. John Cleveland; first secretary to the admiralty; died, a new writ ordered, November 15, 1763.--Aug. J. Hervey; next brother to the earl of Bristol; a captain in the navy, and a colonel of marines; in this parliament before for St. Edmundsbury.--George Adams.

Camelford. Samuel Martin; treasurer to the princess dowager of Wales.--Bartholomew Burton.

Westlooe. Francis Buller; made groom porter to his majesty; a new writ ordered, December 16, 1763, he was re-chosen; died, a new writ ordered, January 10, 1765.--John Sargent; a director of the bank.--Sir William Trelawney; made governor of Jamaica; a new writ ordered, July 5, 1767.--James Townshend.

Grampound. Merrick Burrell; created a baronet July 12, 1766.--Simon Fanshaw; appointed one of the clerks of the board of green cloth, on the dissolution of the last parliament.

Eastlooe. John Buller; made a commissioner of the admiralty; a new writ ordered, December 17, 1765, he was re-chosen.--Francis Gashry; died, a new writ ordered, May 21, 1762.--Henry lord viscount Palmerston; of Ireland; made a commissioner of trade and plantations; a new writ ordered, November 11, 1765, he was re-elected.

Penryn. Sir Edward Turner; vice-admiral of the blue squadron of his majesty's fleet; master of Greenwich hospital; created a baronet January 21, 1764.--George B. Rodney; died, a new writ ordered, November 11, 1766.--Francis Bassett.

Tregony. William Trevanion; died, a new writ ordered, January 27, 1767.--Thomas Pownall.--Abraham Hume.

Bossiney. John Richm. Webb; made a Welsh judge; a new writ ordered, January 10, 1765, he was re-elected; died, a new writ ordered, January 17, 1766.--John lord viscount Mountstuart; eldest son to the earl of Bute.--Ed. W. Montagu.

St. Ives. H. Mackworth Praed.--Charles Hotham; eldest son of sir Beaumont Hotham, bart.; colonel in the army; has a company in the foot guards, and adjutant-general to the British forces in Germany; made a groom of his majesty's bed-chamber; a new writ ordered, April 18, 1763, he was re-elected.

Fowey. Jonathan Rashleigh; died, a new writ ordered, January 10, 1765.--Philip Rashleigh.--George Edgecumbe; succeeded his brother as lord Edgecumbe; a new writ ordered, November

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28, 1761.--R. B. Walsingham; second son of the earl of Shannon of Ireland; a captain in the navy.

St. Germains. Edward Eliot.--Philip Stanhope; envoy extraordinary to the court of Dresden; made steward of the manor of Old Shoreham, in the county of Sussex; a new writ ordered, May 22, 1765.--William Hussey.

St. Michael's. James Scawen.--John Stephenson.

Newport. John Lee; died, a new writ ordered, November 28, 1761.--William de Grey; appointed solicitor-general to his majesty; a new writ ordered, December 16, 1763, he was re-elected.--Richard Bull.

St. Maxes. Edmund Nugent; son to the member for Bristol; groom of the bedchamber to his majesty, and has a company in the foot guards.--Richard Hussey; king's counsel; attorney-general to the queen; counsel to the admiralty and navy, and auditor of Greenwich hospital.

Callington. Richard Stephens.--Fane William Sharpe.

CUMBERLAND. Sir John Pennington.--Sir James Lowther; made his election for the county of Westmoreland; a new writ ordered, December 9, 1761.--Sir Wilfred Lawson; died, a new writ ordered, December 7, 1762.--Sir James Lowther; lord lieutenant and custos rotulorum of the counties of Cumberland and Westmoreland; in this parliament before for Westmoreland.

Carlisle. Raby Vane; brother to the earl of Darlington; a captain in the navy.--Henry Curwen.

Cockermouth. Sir John Mordaunt.--Charles Jenkinson; under secretary to the earl of Bute, one of his majesty's principal secretaries of state; appointed treasurer and paymaster of the ordnance; a new writ ordered, June 2, 1762, he was re-elected; made joint secretary to the treasury, April 16, 1763; made a commissioner of the admiralty; a new writ ordered, December 3, 1766; he was elected for Appulby.--John Elliot; brother to sir Gilbert Elliot, bart. a captain in the navy.

DERBYSHIRE. Lord George Cavendish; made comptroller of his majesty's household; a new writ ordered, November 28, 1761, he was re-elected; appointed lord lieutenant and custos rotulorum of Derbyshire, June 6, 1766.--Sir Henry Harper.

Derby. Lord Fred. Cavendish; lord of the bedchamber to the duke of Cumberland; colonel of a regiment of foot, and in the course of this parliament a major-general, and a lieutenant-general.--George Ven. Vernon; created lord Vernon, baron of Kinderton in Cheshire; a new writ ordered, April 30, 1762.--William Fitzherbert; his majesty's housekeeper at Newmarket; in this parliament before for Bramber; made a commissioner of trade and plantations; a new writ ordered, December 17, 1765, he was re-elected.

DEVONSHIRE. Sir Wm. Courtenay; created lord viscount Courtenay of Powderham castle in Devonshire; a new writ ordered, April 29, 1762.--John Parker; in this parliament before for Bodmin.--Sir R. W. Bampfylde.

Exeter. John Tuckfield; died, a new writ ordered, December 9, 1767.--John Spicer.--John Rolle Walter.

Totness. Richard Sav. Lloyd.--Browse Trist; made steward of the manor of Old Shoreham in the county of Sussex; a new writ ordered, March 29, 1763.--Henry Seymour; a groom of his majesty's bedchamber.

Plymouth. Will. W. viscount Barrington; made treasurer of the navy; a new writ ordered, June 2, 1762, he was re-elected.--Sir George Pocock.

Oakhampton. Alexander Forrester.---Wenman Coke.

Barnstaple. Denys Rolle.--George Amyand; created a baronet, August 4, 1764; died, a new writ ordered, November 11, 1766.--John Cleveland; accomptant of the sixpenny receivers office.

Plympton Earle. George Treby; died, a new writ ordered, November 28, 1761.--George Hele Treby; has a company in the foot guards; died, a new writ ordered, November 16, 1763.--Paul Henry Ourry; a captain in the navy.--Sir William Baker.

Honiton. John Duke.--Henry R. Courtenay.--Sir George Yonge; made a commissioner of the admiralty; a new writ ordered, November 11, 1766, he was re-elected.

Tavistock. Richard Rigby; appointed one of the vice-treasurers of Ireland; a new writ ordered, December 17, 1762, he was re-elected.--Richard N. Aldworth; appointed paymaster of pensions; a new writ ordered, November 15, 1763, he was re-elected.

Ashburton. Thomas Walpole; brother to lord Walpole; a banker in London.--John Harris; master of his majesty's household; died, a new writ ordered, Nov. 27, 1767.--Robert Palk.

Dartmouth. Richard viscount Howe; made a commissioner of the admiralty,

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a new writ ordered, April 18, 1763, he was re-elected; appointed treasurer of the navy, a new writ ordered, December 17, 1765, he was re-elected.--John Jefferys; died, a new writ ordered, January 31, 1766.--Richard Hopkins; a clerk of the board of green cloth; again appointed to the same office, a new writ ordered, November 24, 1767, he was re-elected.

Beeralston. Sir Francis H. Drake.--George Hobart; next brother to the earl of Buckinghamshire.

Tiverton. Nathaniel Ryder.--Sir Edw. H. Montagu; called up to the House of Peers as baron Beaulieu of Beaulieu, in the county of Southampton; a new writ ordered, May 5, 1762.--Charles Gore; died, a new writ ordered, February 16, 1768.--John Duntz.

DORSETSHIRE. George Pitt.--Humphry Sturt.

Poole. Thomas Calcraft; a lieutenant-colonel in the army.--Joseph Gulston; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, May 22, 1765.--Joseph Gulston.

Dorchester. Joseph lord Milton; created baron Milton of Milton Abbey in Dorsetshire; a new writ ordered, April 29, 1762.--John Damer; brother of lord Milton.--Thomas Foster; died, a new writ ordered, December 17, 1765.--William Ewer.

Lyme Regis. Henry Fane.--Thomas Fane; succeeded as earl of Westmoreland; a new writ ordered, November 25, 1762.--John lord Burghersh; eldest son of the earl of Westmoreland.

Weymouth and Melcombe Regis. Sir F. Dashwood; appointed chancellor and under treasurer of the Exchequer; a new writ ordered, June 2, 1762, he was re-elected; called up to the House of Peers to the ancient barony of Le Despenser; a new writ ordered, April 18, 1763.--N. B. Mr. Walcott was chosen in his place.--John Olmius; created lord Waltham of Philipstown in the kingdom of Ireland; died, a new writ ordered, November 25, 1762.--Richard Jackson.----Charles Walcott.----John Tucker; paymaster of the marine forces.--Richard Glover.

Bridport. Sir Gerrard Napier; died, a new writ ordered, January 29, 1765.--Benjamin Way.--Thomas Coventry; a director of the South Sea Company.

Shaftesbury. Sir Gilbert Heathcote.--Samuel Touchet; a merchant in London.

Wareham. John Pitt.--Thomas Erle Drax.

Corfe Castle. Henry Bankes; appointed a commissioner of the customs; a new writ ordered, December 1, 1762.--John Campbell.--George lord viscount Malpas; eldest son to the earl of Cholmondeley; colonel of a regiment of foot; died, a new writ ordered, March 26, 1764.--John Bond.

DURHAM. Frederick Vane; next brother to the earl of Darlington.--Robert Shaftoe.

Durham. John Tempest.--Henry Lambton; died, a new writ ordered, November 28, 1761.--Ralph Gowland; not duly elected.--John Lambton; found duly elected, and ought to have been returned, May 11, 1762; colonel of a regiment of foot, and a major-general.

ESSEX. Sir W. Maynard.--William Harvey; died, a new writ ordered, November 15, 1763.--John Luther.

Colchester. Charles Gray.--Isaac Martin Rebow.

Malden. Bamber Gascoyne; appointed a commissioner of trade and plantations, a new writ ordered, April 18, 1763; in this parliament afterwards for Midhurst.--John Huske.--John Bullock.

Harwich. C. Townshend; second son to lord viscount Townshend; secretary at war; appointed first commissioner of trade and plantations; a new writ ordered, February 24, 1763, he was re-elected; appointed paymaster-general of the land forces, guards and garrisons in Great Britain; a new writ ordered, he was re-elected; made chancellor and under treasurer of the Exchequer; a new writ ordered, November 11, 1766, he was re-elected; died, a new writ ordered, November 24, 1767.--Thomas Bradshaw; joint secretary to the treasury.--John Roberts; made a commissioner of trade and plantations; a new writ ordered, December 28, 1761, he was re-elected; again appointed to the same office, a new writ ordered, December 17, 1765, he was re-elected.

GLOUCESTERSHIRE. Thomas Chester; died, a new writ ordered, November 15, 1763.--Edward Southwell.--Norborne Berkeley; lord lieutenant and custos rotulorum of this county, and a groom of his majesty's bedchamber; made steward of the Chiltern Hundreds in the county of Bucks; a new writ ordered, March 11, 1763; he claimed soon after the ancient barony of Bottetourt, which after four days hearing before the House of Lords, was adjudged to him.--Thomas Tracy.

Gloucester. George A. Selwyn.--Charles Barrow.

Cirencester. James Whitshed; son-in-law to lord Bathurst.--John viscount Downe.

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Tewkesbury. Sir W. Codrington.--Nicholson Calvert.

HEREFORDSHIRE. Sir John Morgan; died, a new writ ordered, May 4, 1767.--Thomas Foley.--Velters Cornewall.

Hereford. Charles F. Scudamore.--John Symons; died, a new writ ordered, January 16, 1764.--John Scudamore.

Leominster. Chase Price; made steward of the Chiltern Hundreds; a new writ ordered, March 12, 1767.---Edward Willis; solicitor-general to his majesty; made one of the puisne judges of the court of King's-bench; a new writ ordered, January 28, 1768.--John Carnac; a brigadier-general in the service of the East India company.--Jenison Shaftoe.

Weobly. W. Henry, mar. Titchfield; eldest son of the duke of Portland, to whose title he succeeded; a new writ ordered, June 2, 1762.---William Lynch.---Henry F. Thynne; brother to viscount Weymouth; appointed one of the clerks comptrollers of the board of green cloth; a new writ ordered, December 20, 1762, he was re-elected.

HERTFORDSHIRE. Thomas Plumer Byde.---Jacob Houblon.

St. Albans. G. Simon, lord viscount Nuneham.--James West.

Hertford. John Calvert.--Timothy Caswell.

HUNTINGDONSHIRE. John lord Carysfort; made K. B. in 1761; made a commissioner of the admiralty; a new writ ordered, December 20, 1762, he was re-elected.--George lord viscount Mandeville; eldest son to the duke of Manchester, to whose title he succeeded, a new writ ordered, May 20, 1762.--Lord Charles G. Montagu; only brother to the duke of Manchester; appointed governor of South Carolina; a new writ ordered, December 20, 1765.--Robert Barnard; eldest son of sir John Barnard, baronet, to whose title he succeeded in 1764.

Huntingdon. Edward Montagu.--Robert Jones.

KENT. Sir W. K. Wyndham; died, a new writ ordered, November 15, 1763.--Sir Brook Bridges.--Robert Fairfax.

Canterbury. Richard Milles.--Thomas Best.

Rochester. Isaac Townshend; died, a new writ ordered, December 7, 1765.--Grey Cooper; joint secretary to the treasury.--Thomas lord viscount Parker; eldest son of the earl of Macclesfield, whom he succeeded, a new writ ordered, March 19, 1764.--Sir Charles Hardy; vice-admiral of the white.

Maidstone. Rose Fuller.--William Northey; a groom of his majesty's bedchamber.

Queenborough. Sir Piercy Brett; an elder brother of the Trinity house; made rear-admiral of the red in 1762; made a commissioner of the admiralty; a new writ ordered, December 3, 1766, he was re-elected.--Sir Charles Frederick.

LANCASHIRE. J. Smith, lord Strange.--James Shuttleworth.

Preston. Nicholas Fazakerly; died, a new writ ordered, March 2, 1767.--Sir Peter Leicester.--Edmund Starkie.

Lancaster. Francis Reynolds.----Sir George Warren.

Newton. Peter Legh.--Randle Wilbraham.

Wigan. Fletcher Norton; made solicitor-general to his majesty; a new writ ordered, January 25, 1762, he was re-elected; made attorney-general to his majesty, and knighted; a new writ ordered, December 16, 1763, he was re-elected.--Simon Luttrell.

Clithero. Thomas Lister; died, a new writ ordered, December 10, 1761.---Nathaniel Lister.---Asheton Curzon; brother to lord Scarsdale.

Liverpool. Sir Ellis Cunliffe; died, a new writ ordered, November 24, 1767.--Richard Pennant.--Sir William Meredith; made a commissioner of the admiralty; a new writ ordered, December 17, 1765, he was re-elected.

LEICESTERSHIRE. Sir Thomas Palmer.--Edward Smith; died, a new writ ordered, February 25, 1762.--Sir Thomas Cave.

Leicester. George Wright; died, a new writ ordered, January 20, 1766.--Anthony J. Keck.--James Wigley; died, a new writ ordered, December 17, 1765.--John Darker; treasurer to St. Bartholomew's hospital.

LINCOLNSHIRE. Lord Brownlow Bertie; brother to the duke of Ancaster and Kesteven.--Thomas Whichcot.

Lincoln. George Monson; lieutenant-colonel commandant of a regiment of foot.--Coningsby Sibthorpe.

Boston. Lord Robert Bertie; made a lieutenant-general; lord of the bedchamber to the king; made governor of Cork in Ireland in February 1762; made a major-general.--John Mitchell; died, a new writ ordered, December 16, 1766.--Charles Amcotts.

Great Grimsby. Henry Knight; only son of lord Luxborough of Ireland; died, a new writ ordered, November 25, 1762.---Robert lord Luxborough; of Ireland; created in 1763 viscount Bar-

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rells and earl of Catherlough in the said kingdom.--Joseph Mellish.

Stamford. John Chaplin; died, a new writ ordered, January 10, 1765.---George Aufrere; a director of the London assurance.--George B. Brudenell; cousin to the earl of Cardigan; made one of the clerks comptrollers of his majesty's household; a new writ ordered, December 17, 1765.

Grantham. Lord George Manners; took the name of Sutton in 1762, on the death of his brother lord Robert Sutton.--Sir John Cust; chosen Speaker to this parliament.

MIDDLESEX. Sir W. B. Proctor; made a K. B. in 1761.--George Cooke; made joint paymaster-general of the land forces, guards, and garrisons in Great Britain; a new writ ordered, November 11, 1766, he was re-elected.

Westminster. Edward Cornwallis; made a lieutenant-general; made governor of Gibraltar; a new writ ordered, April 21, 1762.--Edwin Sandys; eldest son of lord Sandys.--William viscount Pulteney; only son of the earl of Bath; made lieutenant-colonel of a regiment; a lord of the bedchamber to his majesty, and one of his aides-du-camp; died, a new writ ordered, March 3, 1763.--Hugh lord Warkworth; eldest son of the earl of Northumberland; lieutenant-colonel commandant of a regiment of foot, made aid-du-camp to the king.

London. Thomas Harley; brother to the earl of Oxford; an alderman of London; lord mayor in 1768.---Sir Richard Glyn.--Sir Robert Ladbroke.--William Beckford.

MONMOUTHSHIRE. William Morgan; died, a new writ ordered, November 17, 1763.--Thomas Morgan, jun.---Capel Hanbury; died, a new writ ordered, December 17, 1765.--John Hanbury.

Monmouth. Benjamin Bathurst; died, a new writ ordered, November 14, 1767. John Stepney.

NORFOLK. George Townshend; succeeded his father as viscount Townshend, a new writ ordered, March 21, 1764.--Thomas de Grey.--Sir Armine Wodehouse.

Norwich. Harbord Harbord.---Edward Bacon.

Lynn Regis. Sir John Turner; made a commissioner of the treasury; a new writ ordered, June 2, 1762, he was re-elected.--Horace Walpole.

Yarmouth. Sir E. Walpole.---Charles Townshend; made a commissioner of the admiralty; a new writ ordered, December 17, 1765, he was re-chosen.

Thetford. Aubrey Beauclerk; only son to lord Vere, now duke of St. Albans.--Henry S. Conway; brother to the earl of Hertford; a groom of the bedchamber to the king; colonel of a regiment of dragoons, and a lieutenant-general; appointed one of his majesty's principal secretaries of state, a new writ ordered, December 17, 1765, he was re-elected.

Castle-Rising. Thomas Howard.--Charles Boon.

NORTHAMPTONSHIRE. Sir Edmund Isham.--William Cartwright.

Peterborough. Armsted Parker.---Sir Matthew Lamb.

Northampton. Spencer Compton; an officer in the army, and brother to the earl of Northampton, to whose title he succeeded; a new writ ordered, November 15, 1763.--Lucy Knightley.--Frederick Montagu.

Brackley. Marshe Dickenson; chairman of the committees of ways and means; died, a new writ ordered, February 8, 1765.--John lord viscount Hinchingbroke; eldest son of the earl of Sandwich; an officer in the foot guards.--Robert Wood; under secretary to the right honourable William Pitt, one of his majesty's principal secretaries of state.

Higham-Ferrers. John Yorke; made a commissioner of trade and plantations; a new writ ordered, December 17, 1768, he was re-elected.

NORTHUMBERLAND. George Delaval.---Sir Henry Grey.

Newcastle upon Tyne. Sir Walt. Blacket.--Matthew Ridley.

Morpeth. Thomas Duncombe.---John, lord Garlies; eldest son to the earl of Galloway.

Berwick upon Tweed. Thomas Watson; made steward of the manor of Shippon in Berkshire; a new writ ordered, December 17, 1765.--Wilmot lord viscount Lisburne; of Ireland; lord lieutenant and custos rotulorum of Cardiganshire.--John Crauford; colonel of a regiment of foot, and a major-general at Belleisle and in Portugal; died, a new writ ordered, January 10, 1765.--Sir John H. Delaval.

NOTTINGHAMSHIRE. Lord Robert Sutton; died, a new writ ordered, November 30, 1762.--Thomas Willoughby; only brother to lord Middleton.--John Hewet.

Nottingham. William Howe; made a brigadier-general in the expedition against the island of Belleisle in 1761, and in 1762 made adjutant-general to the forces sent against the Havannah; made lieutenant-governor of the Isle of Wight.--John Plumbtree.

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East Retford. John White.--John Shelley; made treasurer of his majesty's household, and sworn of the privy council; a new writ ordered, November 22, 1766, he was re-elected.

Newark. John Manners.--Thomas Thoroton.

OXFORDSHIRE. Sir James Dashwood.--Lord Charles Spencer; next brother to the duke of Marlborough; made out-ranger of Windsor forest, and surveyor of his majesty's gardens and waters; a new writ ordered, December 20, 1762, he was re-elected; appointed comptroller of his majesty's household; a new writ ordered, April 18, 1763, he was re-elected.

Oxford University. Sir Roger Newdigate.--Peregrine Palmer; died, a new writ ordered, December 7, 1762.--Sir Walter W. Bagot; died, a new writ ordered, January 25, 1768.--Sir William Dolben.

Oxford. Robert Lee; uncle to the earl of Litchfield.--Sir Thomas Stapylton.

Woodstock. John viscount Bateman; lord lieutenant and custos rotulorum of Herefordshire.--Anthony Keck; died, a new writ ordered, June 2, 1767.--William Gordon; next brother to the earl of Aberdeen; a lieutenant colonel in the army.

Banbury. Frederick lord North.

RUTLANDSHIRE. T. Chambers Cecil; brother to the earl of Exeter.--Thomas Noel.

SALOP. Sir John Astley.--Richard Lyster; died, a new writ ordered, April 21, 1766. --Charles Baldwin.

Shrewsbury. Robert Clive.--Thomas Hill.

Bridgenorth. William Whitmore; made a lieutenant-general; made warden of the Mint; a new writ ordered, March 26, 1766, he was re-elected.--John Grey.

Ludlow. Edward Herbert.--Henry Bridgman.

Great Wenlock. Cecil Forester; brother of the other member.---Brook Forester.

Bishop's Castle. Francis Child; a banker in London; died, a new writ ordered, November 16, 1763.--George Clive.--Peregrine Cust; brother of sir John Cust, baronet.

SOMERSETSHIRE. Sir Charles K. Tynte.--Thomas Prowse; died, a new writ ordered, January 16, 1767.--Sir Thomas D. Acland.

Bristol. Robert Nugent; made first commissioner of the board of trade and plantations; a new writ ordered, December 10, 1766, he was re-elected; created viscount Clare of the kingdom of Ireland, January 27, 1767.--Jarrit Smith; created a baronet of Great Britain, January 27, 1763.

Bath. John viscount Ligonier; made steward of the Chiltern Hundreds in the county of Buckingham, and soon after created baron Ligonier of Ripley, in the county of Surrey; a new writ ordered, April 19, 1763.--Sir John S. Sebright; colonel of a regiment of foot, and a major-general.--William Pitt; created earl of Chatham; a new writ ordered, November 11, 1766.---John Smith.

Wells. Henry lord Digby; of Ireland; made a commissioner of the admiralty; a new writ ordered, April 18, 1760, he was re-elected; created baron Digby of Sherborne in the county of Dorset; a new writ ordered, December 17, 1765. Peter Taylor; not duly elected.--Robert Child; duly elected, and ought to have been returned.--Clement Tudway.

Taunton. George earl of Tyrconnel; of the kingdom of Ireland; died, a new writ ordered, March 16, 1762.--Lawrence Sullivan; a merchant in London, and deputy chairman of the directors of the East India company.--Robert viscount Farnham; viscount Farnham in Ireland, and in May 1763, he was farther advanced to the dignity of earl Farnham in that kingdom.

Bridgewater. John earl of Egmont; created baron Lovell and Holland of Enmore, in the county of Somerset; a new writ ordered, April 9, 1762.--J. James viscount Perceval; eldest son of the earl of Egmont; has a company in the foot guards.--Edward Southwell; made steward of the manor of East Hendred, in the county of Berks; a new writ ordered, November 16, 1763, he was elected for the county of Gloucester.--Gabriel lord Coleraine; of Ireland.

Minehead. Percy earl of Thomond; of the kingdom of Ireland; brother to the earl of Egremont; made cofferer of the household; a new writ ordered, November 28, 1761, he was re-elected.--Henry Shiffner.

Ilchester. John earl of Egmont; of the kingdom of Ireland; made his election for Bridgewater; a new writ ordered, November 28, 1761.--William Wilson. --Joseph T. Lockyer; died, a new writ ordered, April 19, 1765.--Peter Legh.

Milborn Port. Edmund Walter.--Thomas Medlycott; died, a new writ ordered, November 15, 1763.--Thomas Hutchings.

SOUTHAMPTON. H. B. Legge; died, a new writ ordered, January 10, 1765.--Sir

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Richard Mill.---Simeon Stuart; succeeded his father as baronet; made one of the chamberlains of the Exchequer; a new writ ordered, February 3, 1762, he was re-elected.

Winchester. Lord Harry Powlett; brother to the duke of Bolton; vice-admiral of the white; succeeded his brother as duke of Bolton; a new writ ordered, December 17, 1765.--George Powlett; cousin to the duke of Bolton; groom porter to his majesty, and one of the gentleman ushers to the princess dowager of Wales.--Henry Penton, jun.; son of the late member; letter carrier to his majesty.

Southampton. Henry Dawkins.---Hans Stanley; made governor of the Isle of Wight; a new writ ordered, January 10, 1765, he was re-elected; made cofferer of his majesty's household; a new writ ordered, January 10, 1766, he was re-elected.

Portsmouth. Sir M. Fetherstonhaugh.--Sir Edward Hawke.

Yarmouth. (I.W.) Thomas lord Holmes; died, a new writ ordered, Jan. 10, 1765.--John Eames; a master in chancery.--Henry Holmes; died, a new writ ordered, December 20, 1762.--Jeremiah Dyson; joint secretary of the treasury; made a commissioner of trade and plantations; a new writ ordered, April 18, 1764, he was re-elected.

Petersfield. John Jolliffe.--Richard Pennant; made steward of the three Chiltern Hundreds; a new writ ordered, December 1, 1767.--Richard Croftes.

Newport. (I. W.) Thomas L. Dummer; died, a new writ ordered, December 17, 1765.--Thomas Dummer; son to the deceased member.--Charles Holmes; died at Jamaica; a new writ ordered, March 31, 1762.--W. Rawlinson Earle.

Stockbridge. George Prescott.--Nicholas Linwood; a South Sea director.

Newton. (I. W.) Sir John Barrington.--Harcourt Powell.

Christ-Church. Thomas Robinson; eldest son of lord Grantham.---James Harris; made one of the commissioners of the admiralty; a new writ ordered, January 20, 1762, he was re-elected; made one of the commissioners of the treasury; a new writ ordered, April 18, 1763, he was re-elected.

Lymington. Adam Drummond.--Harry Burrard.

Whitchurch. George Jennings.--Thomas Townshend.

Andover. Sir F. B. Delaval.--Sir John Griffin Griffin.

STAFFORDSHIRE. G. Harry, lord Grey; eldest son of the earl of Stamford.--William Bagot; succeeded his father as baronet in 1768.

Litchfield. John Levett; not duly elected. Hugo Meynell; duly elected, and ought to have been returned.--Thomas Anson.

Stafford. William Chetwynd; succeeded his brother as viscount Chetwynd in June, 1767.--William R. Chetwynd; died, a new writ ordered, February 25, 1765.--John Crewe.

Newcastle-under-Line. Henry Vernon; made a commissioner of excise; a new writ ordered, December 20, 1782.--Sir Laurence Dundas.--John Waldegrave; succeeded his brother as earl Waldegrave; a new writ ordered, November 13, 1763.--Thomas Gilbert; comptroller of the wardrobe to his majesty.

Tamworth. George Bussy, viscount Villiers; a commissioner of the admiralty; made vice-chamberlain of his majesty's household; a new writ ordered, December 17, 1765, he was re-elected.--Sir Robert Burdett.

SUFFOLK. Rowland Holt.--Charles Thomas Bunbury.

Ipswich. Thomas Staunton.----Francis Vernon; created baron Orwell of Newry in Ireland; in 1762 made a commissioner of trade and plantations; a new writ ordered, December 20, 1762, he was re-elected.

Dunwich. Henry Fox; brother to the earl of Ilchester; paymaster-general of the land forces; made clerk of the pells in Ireland; a new writ ordered, November 25, 1762, he was re-elected; created lord Holland, baron of Foxley in the county of Wilts; a new writ issued, April 18, 1763.--Sir J. G. Downing; died, a new writ ordered, February 9, 1764.--Miles Barne.--Alexander Forrester; a barrister at law.--Eliab Harvey.

Orford. Thomas Worsley; surveyor-general of the board of works.--John Offley; a new writ was issued, November 26, 1760, and they were both re-elected.

Aldborough. Philip Fonnereau.--Zachary P. Fonnereau.

Sudbury. Thomas Fonnereau.----John Henniker.

Eye. Henry Cornwallis; second son of earl Cornwallis; a captain in the army; died, a new writ ordered, November 28, 1761.--Henry Townshend; second son of the right hon. Thomas Townshend, and nephew to viscount Townshend; captain of a company in the foot guards; killed at the battle of Williamstall; a new writ ordered, November 25, 1762.--Richard Burton; lieutenant-colonel of a regiment of dragoons.--Charles

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viscount Brome; made lieutenant-colonel of the 12th regiment of foot; succeeded his father as earl Cornwallis; a new writ ordered, November 25, 1762; since created marquis Cornwallis.--Joshua viscount Allen; a lieutenant-colonel in the army.

St. Edmund's-Bury. A. John Hervey; made colonel of marines in 1762; made steward of the manor of Old Shoreham; a new writ ordered, February 17, 1763, he was elected for Saltash.--William Hervey; third brother to the earl of Bristol; a major in the army.--Charles Fitzroy; only brother to the duke of Grafton; one of the grooms of his majesty's bedchamber, and colonel of a regiment of foot; made colonel of a regiment of dragoons in 1765.

SURREY. George Onslow; son of the late Speaker; out-ranger of Windsor forest; made one of the commissioners of the treasury; a new writ ordered, December 17, 1765, he was re-elected.--Sir Francis Vincent.

Southwark. Alexander Hume; died, a new writ ordered, December 17, 1765.--Henry Thrale.---Joseph Mawbey; created a baronet of Great Britain, July 30, 1765.

Blechingly. Sir Kenrick Clayton.----Charles Whitworth; lieutenant-governor of Tilbury Fort, he was knighted in 1768.

Ryegate. Charles Yorke; made attorney-general to his majesty; a new writ ordered, January 25, 1762, he was re-elected; made attorney-general to his majesty; a new writ ordered, December 17, 1765, he was re-elected.----Charles Cocks.

Guilford. George Onslow.---Sir John Elwill.

Gatton. Sir J. Colebrooke; died, a new writ ordered, November 28, 1761.--Edward Harvey; a lieutenant-colonel of dragoons, and aid-du-camp to the king. Thomas Brand.

Haslemere. Philip Cart. Webb.--Thomas M. Molyneux.

SUSSEX. Thomas Pelham; a commissioner of the admiralty; made comptroller of his majesty's household; a new writ ordered, December 17, 1765, he was re-elected.--John Butler; died, a new writ ordered, January 20, 1767.----Lord George H. Lenox; only brother to the duke of Richmond; colonel of a regiment of foot; made a major-general, May 5, 1772; in this parliament before for Chichester.

Chichester. Lord George H. Lenox; brother to the duke of Richmond; a lieutenant-colonel in the army; made aid-du-camp to the king, and colonel of a regiment of foot; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, January 20, 1767, he was elected for the county.--William Keppel; second brother to the earl of Albemarle; colonel of a regiment of foot, and a major-general.--John Page.

Horsham. Sir Lionel Pilkington.--Charles Ingram; groom of the bedchamber to his majesty; succeeded his uncle as viscount Irwin; a new writ ordered, November 16, 1763.--Robert Pratt; brother of lord chief justice Pratt.

Midhurst. William Hamilton; son of lord Archibald Hamilton, envoy extraordinary at the court of Naples; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, January 10, 1764.--Bamber Gascoyne; a commissioner of trade and plantations, and one of the verdurers of Epping forest; in this parliament before for Malden.--John Burgoyne; colonel of a regiment of light dragoons.

Lewes. Sir Francis Poole; died, a new writ ordered, February 16, 1763.--William Plumer.--Thomas Sergison; died, a new writ ordered, December 16, 1766.--Lord Edward C. C. Bentinck; brother to the duke of Portland.

Shoreham. George viscount Midleton; of the kingdom of Ireland; died, a new writ ordered, December 17, 1761.--Sir Samuel Cornish; vice-admiral.---Sir W. Peere Williams; killed at the siege of Belleisle; a new writ ordered, November 28, 1761.----John lord Pollington; of Ireland; created earl Mexborough of Lifford in Ireland in 1766.

Bramber. Andrew Archer; son of lord Archer; made his election for Coventry; a new writ ordered, November 28, 1762.---Edward lord Winterton; of Ireland; in 1766 he was created viscount Turnour and earl Winterton in Ireland.--William Fitzherbert; made steward of the manor of Old Shoreham; a new writ ordered, April 28, 1762.--George V. Vernon; eldest son of George Venables Vernon, esq. created this year lord Vernon, baron of Hinderton in the county of Chester.

Steyning. Frazer Honywood.--Richard Fuller.--John Tomlinson; died, a new writ ordered, February 2, 1767.--Sir John Filmer.

East Grinsted. Charles earl of Middlesex; eldest son of the duke of Dorset, to which title he succeeded on his father's death; a new writ ordered, December 20, 1765.--Sir Charles Farnaby.--Lord George Sackville; son of the

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duke of Dorset; made his election for Hythe; a new writ ordered, December 1, 1761.--Sir Thomas Hales; died, a new writ ordered, November 25, 1762.--John Irwin; colonel of a regiment of foot, and a major-general.

Arundel. George Colebrooke; succeeded his brother as baronet in 1761.--John Bristow.

WARWICKSHIRE. Sir Charles Mordaunt.--William Craven; succeeded his brother as lord Craven; a new writ ordered, January 10, 1765.--William Bromley.

Coventry. Andrew Archer; son of lord Archer.--James Hewit; made one of the judges of the court of King's-bench. He was soon after appointed lord chancellor of Ireland, and created baron Lifford in that kingdom; a new writ ordered, November 11, 1766.--Henry S. Conway; second son of the earl of Hertford.

Warwick. Hamilton, viscount Dungarvan; eldest son of the earl of Corke and Orrery in Ireland, and baron Boyle in Great Britain; succeeded to the peerage on the death of his father; a new writ ordered, December 3, 1762.--Paul Methuen.--Henry Archer.

WESTMORELAND. Sir James Lowther; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, February 7, 1763.--Robert Lowther; brother to sir James Lowther, bart.; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, December 20, 1763.--John Robinson.--John Upton.

Appleby. John Stanwix; colonel of a regiment of foot, and lieutenant-governor of the isle of Wight, and a major-general, drowned coming from Ireland; a new writ ordered, December 16, 1766.--Charles Jenkinson; one of the commissioners of the admiralty, and auditor of accounts to the princess dowager of Wales; in this parliament before for Cockermouth; made one of the commissioners of the treasury; a new writ ordered, November 27, 1767, he was re-elected.--Philip Honywood.

WILTSHIRE. Sir Robert Long; died, a new writ ordered, February 25, 1767.--Thomas Goddard.--Edward Popham.

New Sarum. Edward Bouverie; brother of viscount Folkstone.--Julines Beckford; died, a new writ ordered, January 29, 1765.--Samuel Eyre.

Wilton. Robert S. Herbert.---Nicholas Herbert; made secretary of the island of Jamaica; a new writ ordered, January 10, 1765, he was re-elected.

Downton. James Hayes.--Charles Pratt; made chief justice of the Common Pleas; a new writ ordered, January 25, 1762.---Thomas Pym Hales; deputy warden of the Cinque Ports; succeeded his father as baronet in 1763.

Hindon. William Blackstone; principal of New Hall; Vinerian professor of law in the university of Oxford, and solicitor to the queen.--Edward Morant.

Haytesbury. Pierce A'Court.---William A'Court; made colonel of a regiment of foot, and a lieutenant-general.

Westbury. Chauncy Townsend.--Peregrine Bertie.

Calne. Thomas Duckett; died, a new writ ordered, April 15, 1766.--John Calcraft.--Daniel Bull; made one of the commissioners of taxes; a new writ ordered, December 20, 1762.--Thomas Fitzmaurice; brother to the earl of Shelburne.

Devizes. John Garth; died, a new writ ordered, January 10, 1765.--James Sutton.--William Wilby; died, a new writ ordered, April 29, 1765. The House having been mis-informed as to Mr. Wilby's death, a messenger was immediately dispatched to stop the delivery of the writ until further orders. Mr. Wilby dying, a new writ was ordered, May 29, 1765.--Charles Garth.

Chippenham. Edward Bayntun Rolt; surveyor-general of the duchy of Cornwall; created a baronet of Great Britain, July 9, 1762.--Sir Samuel Fludyer; lord mayor in 1762; died, a new writ ordered, January 22, 1768.--Sir Thomas Fludyer; brother of the deceased member.

Malmesbury. W. Conolly.--John Child, earl Tylney; of Ireland; ranger of Epping forest in the county of Essex.

Cricklade. Arnold Nesbitt; a merchant in London.--Thomas Gore.

Great Bedwin. Thomas Cotes; vice-admiral of the red, and an elder brother of the Trinity house; died, a new writ ordered, November 24, 1767.--Sir Thomas Fludyer; a merchant in London.--William Woodley; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, June 6, 1766.----William Burke; under secretary to general Conway, one of his majesty's principal secretaries of state.

Luggershall. Thomas Whateley; joint secretary to the treasury.--John Paterson.

Old Sarum. Thomas Pitt; died, a new writ ordered, December 4, 1761.--Thomas Pitt; son of the deceased member; made one of the commissioners of the admiralty; a new writ ordered, April

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18, 1763, he was re-elected.--Howell Gwynne; lord lieutenant and custos rotulorum of the county of Radnor.

Wotton Basset. Thomas E. Cresswell.--Henry St. John; brother to viscount Bolingbroke; a major in the army, and groom of the bedchamber to the duke of York.

Marlborough. John lord Brudenell; eldest son of the earl of Cardigan; created lord Montagu of Boughton in the county of Northampton; a new writ ordered, May 3, 1762.--James Long; eldest son of sir Robert King, bart; succeeded his father in 1767.--Robert Brudenell; 2d brother to the earl of Cardigan; a groom of the bedchamber to the duke of York; has a company in the foot guards, and aide-du-camp to the king.

WORCESTERSHIRE. John Ward; eldest son of lord Ward.--William Dowdeswell.

Worcester. John Walsh.--Henry Crabb Boulton; a director of the East India company.

Droitwich. Robert Harley.---Thomas Foley.

Evesham. Sir J. Rushout.--John Rushout; son of sir John Rushout, bart.

Bewdley. Sir Edward Winnington; made storekeeper of the ordnance; a new writ ordered, December 20, 1762.

YORKSHIRE. Edwin Lascelles.--Sir George Savile.

York. Sir George Armitage.---Robert Lane; only son of George Fox Lane, (lord Bingley.)

Kingston-upon-Hull. Lord Robert Manners; made colonel of a regiment of dragoons in 1765.--Sir George M. Metham; made patent clerk of his majesty's wardrobe; a new writ ordered, March 7, 1766.--William Weddell.

Knaresborough. Lord John Cavendish; brother to the duke of Devonshire; made a commissioner of the treasury; a new writ ordered, December 17, 1765, he was re-elected.--Sir Henry Slingsby; died, a new writ ordered, January 26, 1763.--Sir Anthony T. Abdy; made one of his majesty's counsellors at law; a new writ ordered, December 18, 1765, he was re-elected.

Scarborough. William Osbaldeston; died, a new writ ordered, November 11, 1766.--F. W. Osbaldeston.--John Major; an elder brother of the Trinity house; created a baronet in 1765.

Rippon. William Aislabie.----William Lawrence.

Richmond. William earl of Ancram; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, March 7, 1765.--Thomas Dundas; eldest son of sir Laurence Dundas.--Sir Ralph Milbanke.

Heydon. Sir Charles Saunders; made a commissioner of the admiralty; a new writ ordered, December 17, 1765; made first lord commissioner of the admiralty; a new writ ordered, November 11, 1766, he was re-elected.---Peter Dennis; created a baronet of Great Britain, 1767.

Borough-Bridge. Brice Fisher; died, a new writ ordered, June 1, 1767.--James West, jun.; son of the member for St. Albans.--Sir Cecil Bishopp.

Malton. John Mostyn; made a lieutenant-general in 1759.--Henry Finch; died, a new writ ordered, November 28, 1761.--Savile Finch.

Thirske. Thomas Frankland; succeeded his brother as baronet in ; made vice-admiral of the .--Henry Grenville; third brother to earl Temple; ambassador at Constantinople; made a commissioner of the customs; a new writ ordered, December 17, 1765.---James Grenville; son of the right hon. James Grenville.

Aldborough. Nathaniel Cholmley.--Andrew Wilkinson; made storekeeper of the ordnance; a new writ ordered, December 17, 1765, he was re-elected.

Beverley. Michael Newton.---George Forster Tuffnell.

Northallerton. Edward Lascelles; brother to Edwin and Daniel Lascelles. The barony of Harewood becoming extinct on the death of Edwin lord Harewood, his majesty was pleased to revive the same title in the person of his brother Edward Lascelles, esq. June 1796.--Daniel Lascelles.

Pontefract. William viscount Galway; made master of the stag hounds; a new writ ordered, December 17, 1765, he was re-elected.--William Ger. Hamilton; made chancellor of the Exchequer in Ireland; a new writ ordered, April 18, 1763, he was re-elected.

CINQUE PORTS.

Hastings. James Brudenell; brother to the earl of Cardigan, master of the rolls to his majesty.--William Ashburnham; son of the bishop of Chichester.

Dover. Sir J. Yorke; fourth son of the earl of Hardwicke; colonel of a regiment of dragoons; ambassador extraordinary and plenipotentiary to the states-general.--Sir Edward Simpson; died, a new writ ordered, January 10, 1765.--John marquis of Lorn; eldest

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son of the duke of Argyle; colonel of a regiment of dragoons, and a major-general; made colonel of the 1st or royal regiment of foot, 1756; created baron Sundridge of Coomb Bank in the county of Surrey; a new writ ordered, December 16, 1766.--John Bindley.

Sandwich. George Hay; a commissioner of the admiralty; official principal of the arches court of Canterbury; vicar-general to the archbishop of Canterbury, and chancellor of the diocese of Worcester.--Henry viscount Conyngham.

Hythe. William Glanville; died, a new writ ordered, November 18, 1766.--William Amherst; brother to sir Jeffrey Amherst, K. B.; has a company in the foot guards, and aide-du-camp to the king.--Lord George Sackville; third son of the duke of Dorset; clerk of the council in Ireland, and keeper of the Phœnix park near Dublin; made one of the vice-treasurers of Ireland; a new writ ordered, December 18, 1765, he was re-elected; changed his name to Germaine; February 16, 1770.

New Romney. Sir Edward Deering.--Thomas Knight, jun.--Richard Jackson; one of the king's counsellors at law, and counsel to the board of trade and plantations.

Rye. Phillips Gibbon; died, a new writ ordered, March 15, 1762.--John Norris.---John Bentinck; a captain in the navy.

Winchelsea. Thomas O. Hunter; made a commissioner of the treasury, a new writ ordered, April 18, 1763, he was re-elected.--Percy, earl of Thomond; of Ireland; brother to the earl of Egremont; made cofferer of his majesty's household; a new writ ordered, November 28, 1761, he was elected for Minehead.---Thomas Sewell; made master of the rolls; a new writ ordered, January 10, 1765, he was re-elected.

Seaford. W. Hall, viscount Gage; made paymaster of pensions; a new writ ordered, December 17, 1765, he was re-elected. On the dissolution of this parliament he was created baron Gage of Firle in the county of Sussex; under secretary to lord George Germaine, one of his majesty's principal secretaries of state.--James Peachy.

WALES.

ANGLESEY. Owen Merrick; custos rotulorum of this county.

Beaumaris. Richard Pryce.

BRECONSHIRE. Thomas Morgan.

Brecon. Thomas Morgan jun.; made steward of the manor of Old Shoreham in the county of Sussex; a new writ ordered, November 17, 1763, he was elected for the county of Monmouth.---Charles Morgan; second son of the member for the county; a lieutenant in the foot guards; made steward of the manor of East Hendred in the county of Berks; a new writ ordered, April 29, 1769, he was elected for the county.

CARDIGANSHIRE. John Pugh Pryce.

Cardigan. Herbert Lloyd; created a baronet of Great Britain, April 15, 1763.

CARMARTHENSHIRE. George Rice; lord lieutenant and custos rotulorum of this county; a commissioner of trade and plantations, and chamberlain of the counties of Brecon, Radnor, and Glamorgan, and also of the town and borough of Brecon.

Carmarthen. Ralph earl Verney; of Ireland.

CARNARVONSHIRE. Thomas Wynn; eldest son of sir John Wynn; lord lieutenant of this county; made auditor of the land revenue for Wales; succeeded his father as baronet in 1773, and in 1776 was created lord Newborough in Ireland.

Carnarvon. Sir John Wynn; surveyor-general of his majesty's mines in Wales, and treasurer to Chelsea hospital.

DENBIGHSHIRE. Sir Lynch Salusbury Cotton; receiver-general of the king's quit rents in North Wales.

Denbigh. Richard Myddelton; lord lieutenant and custos rotulorum of the county of Denbigh.

FLINTSHIRE. Sir Roger Mostyn.

Flint. Sir John Glynne.

GLAMORGANSHIRE. Sir Edmund Thomas; treasurer to the princess dowager of Wales; made surveyor of his majesty's woods, north and south of the river Trent; a new writ ordered, April 18, 1763, he was re-elected; died, a new writ ordered, November 24, 1767.--Richard Turberville.

Cardiff. Herbert Mackworth; died, a new writ ordered, December 17, 1765.--Herbert Mackworth; son of the deceased member.

MERIONETHSHIRE. William Vaughan; lord lieutenant and custos rotulorum of this county and the county of Cardigan.

MONTGOMERYSHIRE. Edward Kynaston.

Montgomery. Richard Clive.

PEMBROKESHIRE. Sir John Phillips; sworn of the privy council; died, a new writ ordered, January 10, 1765.--Sir Richard Phillips; son of the deceased member, afterwards lord Milford of Ireland.

Pembroke. Sir William Owen; lord

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lieutenant and custos rotulorum of the county of Pembroke.

Haverford West. William Edwardes.

RADNORSHIRE. James, marquis of Carnarvon; only son of the duke of Chandos; a lord of the bedchamber to the king, and ranger of Enfield Chace.

Radnor. Edward Lewis; informed the House that he did not mean to contest the matter of the double return; the clerk of the crown was ordered to attend, and erase Mr. Edward Lewis's name from it, November 28, 1761.--Thomas Lewis. Double return.

SCOTLAND.

SHIRES OF

Aberdeen. Lord Adam Gordon; promoted to the rank of colonel in the army; in January 1769 made colonel of a regiment.

Ayr. Archibald Montgomery; only brother to the earl of Eglintoune; lieutenant-colonel commandant of a regiment of foot, and one of the equerries to the queen; made a colonel in the army in 1762; in 1767 made colonel of a regiment of foot; in 1764 made governor of the castle of Dumbarton; in October 1769 he succeeded as earl of Eglintoune.

Argyle. Dugall Campbell; made steward of the revels in Ireland; a new writ ordered, December 16, 1763.--Lord William Campbell; second son of the duke of Argyle; a captain in the navy; made governor of Nova Scotia; a new writ ordered, November 12, 1766.--Robert Campbell.

Banff. James, viscount Macduff.

Berwick. James Pringle; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, April 2, 1779.

Bute and Caithness. James Stuart; brother to sir Robert Stuart, bart. lieutenant-colonel commandant of a regiment of foot; died, a new writ ordered, April 17, 1762.--Henry Wauchope.

Clackmannan and Kinross. James Abercrombie.

Dumfries. Archibald Douglas; colonel of a regiment of dragoons, and a major-general.

Dunbarton. John Campbell; succeeded as duke of Argyle; a new writ ordered, November 28, 1761.--Archibald Edmonstone.

Edinburgh. Sir Alexander Gilmour.

Elgin. James Grant; only son of the last member.

Fyfe. James St. Clair; made a general; died, a new writ ordered, December 16, 1762.--James Wemyss; third son of the late earl of Wemyss; lieutenant of the navy.

Forfar. William earl Panmure.

Haddington. Andrew Fletcher; auditor of the Exchequer in Scotland.

Inverness. Simon Fraser; lieutenant-colonel commandant of a highland regiment of foot; made a colonel in the army in 1762.

Kincardine. Sir James Carnegie; died, a new writ ordered, May 1765.--Sir Alexander Ramsay.

Kirkcudbright. John Ross Mackye; made treasurer and paymaster of the ordnance; a new writ ordered, April 18, 1763, he was re-elected.

Lanark. Daniel Campbell.

Linlithgow. Charles Hope Weir.

Nairn. Pryce Campbell; made a commissioner of the treasury; a new writ ordered, November 11, 1766, he was re-elected.

Orkney. Sir James Douglas; made a rear-admiral of the white.

Peebles. John Dickson; died, a new writ ordered, December 3, 1767.--Adam Hay.

Perth. John Murray; nephew and son-in-law to the duke of Athole; succeeded his uncle as duke of Athole; a new writ ordered, February 17, 1764.--David Græme; secretary to the queen; colonel of a regiment of foot, and a major-general; made comptroller of the queen's household.

Renfrew. Patrick Crauford.

Ross. James Stuart Mackenzie; brother to the earl of Bute; made lord keeper of the privy seal of Scotland; a new writ ordered, April 18, 1763, he was re-elected; again appointed to the same office; a new writ ordered, November 11, 1766, he was re-elected.

Roxburgh. Walter Scott; made receiver and cashier of the excise in Scotland; a new writ ordered, May 22, 1765.--Gilbert Elliot; eldest son of sir Gilbert Elliot, bart. of Minto; treasurer of the chamber; before in this parliament for the county of Selkirk; made keeper of the signet for Scotland; a new writ ordered, January 16, 1767, he was re-elected; succeeded his father as baronet in April 1766.

Selkirk. Gilbert Elliot; made treasurer of the chamber; a new writ ordered, June 2, 1762, he was re-elected; made steward of the three Chiltern Hundreds in the county of Buckingham; a new writ ordered, May 22, 1765, he was re-chosen for the county of Roxburgh.--John Pringle.

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Stirling. James Campbell; made governor of the castle of Stirling; a new writ ordered, December 13, 1763, he was re-elected.

Sutherland. Alexander Mackay; second brother to lord Reay; a lieutenant-colonel in the army; made colonel of a regiment of foot.

Wigton. John Hamilton; made steward of the manor of Old Shoreham in the county of Sussex; a new writ ordered, February 22, 1762.--James Murray.

Edinburgh City. George Lind; made conservator of the privileges of the Scots nation in the Netherlands; a new writ ordered, February 19, 1762.---James Coutts; a banker in London.

BURGHS OF

Kirkwall, &c. John Scot; has a company in the foot guards; in 1762 made colonel of a regiment of foot.

Inverness, &c. Sir Alexander Grant.

Elgin, &c. Andrew Mitchell; made a knight of the bath.

Aberdeen, &c. David Scott; died, a new writ ordered, December 10, 1766.--Sir John Lindsay; a captain in the navy.

Forfar, &c. George Dempster; made secretary to the order of the thistle; a new writ ordered, December 18, 1765, he was re-elected.

Crail, &c. Sir Henry Erskine; made keeper of the private roads; a new writ ordered, July 1, 1757, he was re-elected; in October 1760, he was restored to his rank in the army, and made a major-general and colonel of a regiment of foot; in 1762 made a lieutenant-general, and in 1765 colonel of the 1st or royal regiment of foot; made secretary to the order of the thistle; a new writ ordered, May 6, 1765, he was re-elected; died, a new writ ordered, December 17, 1765.--Sir John Anstruther; hereditary carver to his majesty in Scotland.

Kirkaldy, &c. James Oswald.

Inverkeithing, &c. Francis Holburne; vice admiral of the red.

Glasgow, &c. Lord Frederick Campbell; second son of the duke of Argyle; made lord keeper of the privy seal for Scotland; a new writ ordered, May 24, 1765, he was re-elected.

Selkirk, &c. John Lockhart Ross; a captain in the navy.

Haddington, &c. Sir Hew Dalrymple.

Dumfries, &c. Thomas Miller; lord advocate for Scotland; made lord justice clerk for Scotland; a new writ ordered, April 28, 1766.--James Montgomery; lord advocate for Scotland.

Wigton, &c. Archibald Montgomery; brother to the earl of Eglintoun; lieutenant-colonel commandant of a regiment of Highlanders, and an equerry to the queen; made his election for the county of Ayr; a new writ ordered, January 20, 1762.--Keith Stewart; second son of the earl of Galloway; a captain in the navy; made steward of the manor of Old Shoreham; a new writ ordered, March 16, 1762.--John Hamilton.

Ayr, &c. Lord Frederick Campbell; third son to the duke of Argyle; made his election for the burghs of Dumbarton, &c.; a new writ ordered, November 28, 1761.--Alexander Wedderburn; a barrister at law, and one of his majesty's counsellors at law.

SIXTEEN PEERS OF SCOTLAND.

Duke of Argyle,
Marq. of Tweedale, (died in 1762; in his place the Earl of Sutherland; he died in 1766, and the Duke of Athol was elected in his room.)
Earl of Rothes, (died in 1767; no new election.)
Morton,
Eglingtoun,
Moray, (died in 1767; in his stead the duke of Gordon.)
Hyndford, (died in 1767; in his stead the Earl of Strathmore.)
Abercorn,
Loudoun,
Breadalbane,
Dunmore,
March,
Marchmont,
Bute,
Viscount Stormont.
Lord Cathcart.

Sir John Cust chosen Speaker.] The Commons being returned to their House, The right hon. *George Grenville*, one of the burgesses for the borough and parish of Buckingham, addressing himself to the Clerk, (who standing up, pointed to him, and then sat down,) spake to the effect following:

Mr. Dyson;

We are now assembled together, in consequence of the directions received from his Majesty, and in pursuance of the ancient and undoubted right of this House, to proceed to the choice of a Speaker.

And, as the business of this day must necessarily renew our concern for the absence of an honourable person, whom we no longer see amongst us, so I am confident, that every gentleman who hears me, will join with pleasure in paying the just tribute of praise, and of gratitude, to that

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most worthy, and most respectable gentleman, whose eminent virtues and abilities, whilst he presided in the Chair, entitled him to the most distinguished marks of the regard and affection of this House, applauded by the unanimous voice of his country, and confirmed by the royal approbation of the best of princes.

Upon this occasion it hath been usual to point out the qualifications for the due discharge of that great office, which is the object of our present consideration; and how can I do it more properly, or more effectually, than by recalling to your minds the character and behaviour of Mr. Onslow.

There was in him, experience, knowledge, authority, firmness, patience, and industry, dispatch without precipitation, vigour of mind supported by the most unspotted integrity, and tempered by the most extensive benevolence and gentleness: equally free from the sordid love of money, and from the more dangerous lust of power; he was impartial to all, a constant encourager of rising merit, desirous to assist the most ignorant, and able to instruct the most knowing: such were the virtues, such were the talents, which he exerted, during a long and unexampled course of years, in this most honourable, but most difficult station; and he left it, not too soon for his own glory and reputation, which were complete, too late I fear for his heath, worn out and broken in this painful service; but much too soon for the public good, and for the dignity of this House, to which he was so ardently devoted, and whose essential rights, upon all occasions, he most firmly maintained.

Nor is this the language of flattery and exaggeration; I appeal for the truth of it to the witnesses of his conduct, to every gentleman who sat in any former parliament; I cannot therefore entertain a fear, that this genuine testimony of public gratitude, and of private friendship, for both I feel most sensibly, offered to him in his absence and retirement, can never be ascribed to any less worthy, or less honourable inducement.

And let not this recapitulation of his services be deemed foreign to the purpose of this day, as it must be the strongest incitement to others, to copy and to emulate his example; and thus shall the influence of his virtues and public spirit, in some degree, supply his place, and still continue to promote what were ever most dear to him, the honour, welfare, and security of the Commons of Great Britain.

In this situation, after so great a loss, it is incumbent upon us all to consider what will be most conducive to the authority and credit of the Chair, upon which the dignity, order, and dispatch of this great assembly do most immediately depend.

And it is with this view, and with this view alone, free from every other consideration, that I shall beg leave to propose to the House a gentleman, who, I hope, will be found equal to the execution of this important trust; a gentleman of a very ancient and honourable family, of an affluent and independent fortune to support that high rank and station, of a fair and unblemished character to adorn it, free from prejudices of every sort, and of that known temper and moderation which are most likely to conciliate and to preserve to the Chair, that attention and respect which are indispensably necessary.

To this let me add, a gentleman of great experience, who hath sat many years in parliament, and, during that time, hath attended to the proceedings, and hath applied himself to the business of the House with more than common assiduity.

These and other qualifications have induced me, with the concurrence, and at the request, of many worthy members, to propose to you sir John Cust, whose presence, both for his sake and my own, restrains me from expatiating more fully upon this subject, as I feel it a more ingenuous and becoming office to praise the absent than the present, and therefore I shall conclude with moving you, That sir John Cust do take the chair of this House, as Speaker.

Then lord viscount *Barrington*, one of the burgesses for the borough of Plymouth, addressing himself likewise to the Clerk, (who standing up, pointed to him, and then sat down,) spake to the effect following:

Mr. Dyson;

I have always great pleasure in concurring with my honourable friend; but it gives me particular satisfaction that I have the honour to second him at this time, and on this occasion. I join with him in lamenting, most sincerely, that the present parliament (peculiarly happy in many respects) will not have the advantage which many preceding parliaments have enjoyed, through the care and instruction of Mr. Onslow, who most deservedly obtained the unanimous approbation and ap-

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plause of the several assemblies in which he presided. Coming young to the Chair, called to it from an early opinion universally conceived of his superior fitness and abilities for it, he equalled the most sanguine expectations of his warmest friends; and preserved inviolate to the last, during more than 30 years, the highest reputation, to which a member of this House can aspire. Educated in the principles of liberty and of loyalty, (which, however incompatible in other countries, should be ever inseparable in this) he never deviated from them. He saw and lamented the rage and violence of parties, without being infected by their contagion; and he has had the felicity of seeing them grow feeble in the last reign, and expire in this. Happy in the justice done by his country to the mature virtues of the late king, and the well founded confidence placed in the rising virtues of the present.

No Speaker ever preserved better the dignity of this House, or the decency requisite in its debates and proceedings: this he was enabled to do by the thorough knowledge he acquired of the constitution of parliament, and of the rules and orders of the House of Commons. If there are not amongst us, numbers expert in this useful, and indeed necessary part of parliamentary knowledge, it must not be imputed to him; for he was above the mean arts of those who wish to keep science to themselves, and he most readily imparted it to such as were desirous to attain it. Too few in this age have applied themselves to what used to be the highest ambition of an English gentleman, that of being a knowing parliament man; but some, much to their honour, have made use of their time and talents in that way, under the most kind, benevolent, and communicative instructor, that perhaps any age has produced, since the beginning of our constitution. Among these, none have taken more successful pains than the hon. gentleman just named. I will not attempt to repeat what has been so justly said in his favour; for though it would give me great pleasure to express, in the most particular manner, my sense of his worth, and fitness for that Chair which Mr. Onslow filled with the most universal applause; he is present, and I will remember what pain his modesty might feel from such a repetition; as well as the justice his merit would claim from me, in any place where his birth, fortune, principles, knowledge, application, ability, and integrity, were less known than in the House of Commons.

I confess, Sir, that I should be very sorry to hear this honourable gentleman named for the Chair, if I thought there was a probability of any opposition to the motion made by my honourable friend, and now humbly seconded by me: modest worth should not be exposed to such a mortification; but I have a reason of still higher import: God forbid that this parliament should begin without unanimity. Difference in opinion this day would afford an unfavourable prospect of future division. The nation is now thoroughly united, and inclined to be so: It has felt the sad effects of disunion; it has tasted the happy fruits of unanimity, in a long series of prosperity both at home and abroad. National union can subsist no longer than parliamentary union continues; and what less than a thorough union of good men, both within doors and without, can support with vigour and success this truly British national war, which the conduct of our enemies obliged us to begin, and still forces us to continue, till a safe and honourable peace can be obtained.

The Earl of *Egmont* spoke next, but his speech is not preserved in the Journals.

The House calling Sir *John Cust* to the Chair, he stood up in his place, and said:

" Mr. Dyson;

" The House will, I hope, make some allowances for the confusion in which I rise, occasioned by the great, but undeserved honour which the noble lord, and very honourable gentleman over the way, and the noble lord near me, have done me, in esteeming me, in any degree, equal to that high and important office, which it is the business of this day to supply. After returning them my most sincere thanks for this instance of their good opinion of me, (partiality in my favour I should rather call it) I must intreat them to withdraw their motion, and look round this House, where are many gentlemen of great integrity, knowledge and experience; qualifications which have been so properly represented as essential to the character of that person who ought to preside in this august assembly.

" Sincerity of intention, and zeal for the service of my king and country, are the only merit to which I can lay any claim; how defective I am in other qualifications, must, I think, surely be known to those

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with whom I had the honour to serve in former parliaments; but it is known to none more than to myself; various are the reasons which I could alledge for making this request: the dread of laying open to the public view my own inability for this office; nay, a certainty of making that conspicuous, which, in a private station, might pass unobserved, is of itself sufficient. But after what has been, with so much truth and justice, said of that great person, who filled that chair for thirty-four successive years; when I reflect upon his eminent abilities, his extensive knowledge in the constitutional law of this country, his inimitable method of conducting the business of this House; but above all, his steadiness and vigour in supporting its rights and privileges, and in them the rights and privileges of all the Commons of Great Britain; how greatly must I be alarmed at the difficulties which must attend any successor to him; I most sincerely concur with the noble lords, and very honourable gentleman, in lamenting that this excellent person has chosen to be no more amongst us; let not me, Sir, have so particular a reason for lamenting his loss beyond any other member of this House.

"These reasons, however powerful, are yet personal, and respect only myself: there are other of a far higher, and more important nature; the honour of this House,—its weight,—its authority,—its dignity. These cannot be supported, but by abilities much superior to mine; nor can they suffer the least diminution without infinite prejudice to the whole nation, in its collective as well as representative capacity; especially in the present arduous conjuncture, when affairs of the highest concernment to his Majesty and these kingdoms, must necessarily come under the deliberation of this House. That these may receive no detriment through my defects, I must beg leave to repeat my request to the very honourable gentleman and noble lords, that they will permit me to do the duty of a private member of parliament in this place, and leave me in full possession of the high honour already conferred upon me, without a possibility of its turning to the disadvantage of this House, the public or myself."

The House again calling sir John Cust to the Chair, he was taken out of his place by Mr. Grenville, and lord Barrington, who led him from thence to the Chair, where, upon the first step, he said,

"I must once more desire gentlemen to reflect on what they have done, and I must intreat them to call one to this Chair much better qualified for a trust of so high and important a nature.

But the Members cried, 'No, No.'

Whereupon he ascended the upper step of the Chair, and standing there said,

"The commands of this House I shall ever receive with the utmost deference; and upon every future occasion, I shall esteem it the greatest glory of my life to obey them. I must return my humble acknowledgments to the House for this instance of their favourable sentiments of me: but hope they will give me leave to lay my imperfections before his Majesty, and desire his gracious permission, that the House may appoint another person, more worthy of the dignity of this Chair, and their own."

And thereupon he sat down in the Chair; and then the mace (which before lay under the table) was now laid upon the table.

The House then adjourned to the 6th of November.

The Speaker's Speech on being presented to the King and approved of.] November 6. His Majesty went again to the House of Peers; and having sent for the Commons, the *Speaker-Elect* addressed his Majesty as follows;

"Most Gracious Sovereign,

"Your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, have, in obedience to your Majesty's commands, and according to their ancient right, proceeded to the election of one of their members to be their Speaker, whom they now present to your Majesty: But, Sir, with the utmost concern must I acquaint your Majesty, that, out of so many amongst them eminently qualified for this important station, their choice has fallen upon me.

"Under the apprehensions of my mind, arising from a consciousness of my own inability to discharge as I ought so great a trust, I have this satisfaction, that I can now be an humble suitor to your Majesty, that you would give your faithful Commons an opportunity of rectifying this the only inadvertent step which they can ever take; and be graciously pleased to direct them to present some other to your Majesty, whom they may not hereafter be sorry to have chosen, nor your Majesty to have approved.

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"I do not presume, Sir, to make this request to your Majesty on my own account: It is for the sake of your Majesty's service, the sake of your faithful Commons, and, what will ever be most dear to you, Sir, the interests of your whole people; that those arduous and urgent affairs, which have induced your Majesty to call this parliament, may receive no prejudice through my defects, nor the zealous endeavours of your faithful Commons, for the service of your Majesty and their country, be in any wise obstructed through this their partiality to me."

Then the *Lord Chancellor* receiving directions from his Majesty, said,

"Sir John Cust,

"I am commanded by his Majesty to acquaint you, that although your own modesty may prompt you to decline so important an office as that into which you are elected; yet he hath so good an opinion of your integrity, diligence, and sufficiency for executing the highest trust, that his Majesty is perfectly satisfied with the choice the House of Commons have made, and doth allow and confirm you to be their Speaker."

After which, Mr. *Speaker* said,

"It is my duty, Sir, to submit myself to your Majesty's pleasure, and no longer to decline that service which your Majesty is graciously pleased to think me capable of undertaking.

"Permit me, Sir, with my most dutiful acknowledgments to your Majesty for this mark of your royal grace and favour, to assure your Majesty of my utmost endeavours faithfully to discharge this trust to the best of my small abilities; and, if I fail not in uprightness of heart and zeal for your Majesty's and the public service, I entirely rely upon your Majesty's goodness, to pardon all my failings and involuntary errors; at least, that they may not be imputed to your faithful Commons. That they, Sir, may be the better enabled to perform their duty to your Majesty, and their country, I do, in their name, and on their behalf, by humble petition to your Majesty, lay claim to all their ancient rights and privileges: particularly, That their persons, their servants, and estates, may be free from arrests, suits, and all molestation: that they may have liberty of speech, for the better management of their debates: access to your royal person, on all seasonable occasions: and, that their proceedings may receive from your Majesty the most favourable interpretation."

The *Lord Chancellor*, receiving his Majesty's further commands, said,

"Mr. Speaker,

"The King hath the greatest confidence in the duty and affection of this House of Commons, to his person and government, and in the wisdom, temper, and prudence, which will accompany all their proceedings; and his Majesty doth readily and willingly grant and allow to them all their privileges, in as full and ample a manner as they have at any time been granted and allowed by any of his royal predecessors. As to that part of your request which personally relates to yourself; that you may enter into this weighty office with proper confidence and satisfaction, I am commanded by his Majesty to acquaint you, that he will make the most favourable construction of all your words and actions."

The Commons being returned to their House, Mr. Speaker reported, that the House had attended his Majesty in the House of Peers, where his Majesty was pleased to approve the choice they had made of him, to be their Speaker; and to grant and allow to them, upon petition of claim, made by him to his Majesty, in the name, and on the behalf of the House of Commons, for that purpose, all their ancient rights and privileges in as ample and beneficial a manner, as ever they were enjoyed by any of their predecessors: particularly, that themselves, their servants, and estates, should be free from arrests, and all other molestation: that they should enjoy freedom of speech in their debates; and have liberty of access to his royal person, when occasion should require it. And then

Mr. *Speaker* said;

"And now, I must beg leave to repeat my best acknowledgments to the House, for the undeserved honour, which they have thus conferred upon me. The best return in my power to make them, is to assure them of my earnest endeavours faithfully to discharge this trust; at least they shall ever find in me a true zeal for their honour and service, uprightness of intention, unbiassed impartiality, and a due respect to every member of the House. On these conditions, I may venture to ask, and have no doubt of obtaining, their pardon and indulgence for all involuntary

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errors, and their aid and assistance in correcting those errors.

"The happy unanimity, which at present subsists throughout the kingdom, (and which I pray to God may continue) renders it unnecessary for me to caution them against those heats, and personal animosities, which have formerly been such an impediment to business, and such an interruption to debates.

"The weight and authority, with which my great predecessor constantly recommended a compliance with the rules and orders of the House, make it equally unnecessary for me to add any thing on this subject.

"But gentlemen will, I hope, excuse me, if I earnestly entreat them to take into their consideration the ill consequences of late hours: those, who have sat in former parliaments, must have seen, how, on the one hand, business of importance has been done hastily, and without due deliberation; and, on the other hand, business of as great moment put off from day to day, and at last totally neglected. These great inconveniences might be prevented, if gentlemen would turn their thoughts to some method of enforcing an earlier attendance."

After which Mr. Speaker put the House in mind, that the first thing to be done, was to take the Oaths, and make and subscribe the Declaration, and to take and subscribe the Oaths of Abjuration and Qualification, by law required. And thereupon Mr. Speaker first alone, standing upon the upper step of the Chair, took the said first-mentioned oaths, and made and subscribed the said Declaration, and took and subscribed the said Oath of Abjuration, and also delivered in to the clerk of the House an account of his qualification, and took and subscribed the Oath of Qualification. And after him several other members took the said first-mentioned Oaths, and made and subscribed the said Declaration, and took and subscribed the said Oath of Abjuration: and such of the said members, as are by law required to deliver in to the clerk of this House an account of their qualification, and to take and subscribe the Oath of Qualification, delivered in such account, and took and subscribed the said Oath accordingly.

The King's Speech on Opening the Session.] November 6. His Majesty opened the Session with the following Speech:

"My Lords, and Gentlemen;

"At the opening of the first parliament, summoned and elected under my authority, I with pleasure take notice of an event which has made me completely happy, and given universal joy to my loving subjects. My Marriage with a princess, eminently distinguished by every virtue, and amiable endowment, whilst it affords me all possible domestic comfort, cannot but highly contribute to the happiness of my kingdoms; which has been, and always shall be, my first object in every action of my life.*

* "The King, having, on the 8th of July, summoned a council extraordinary, declared his determination to marry the princess Charlotte of Mecklenburg Strelitz, a communication which was received with some surprize, as the King's intention was a profound secret. The proper arrangements being made, lord Anson, first lord of the admiralty, conducted the princess to England, where, after a dangerous and difficult passage, she arrived in safety. The ceremony of marriage was performed the same day, and soon after the coronation.

The Hon. Horace Walpole to the Hon. Henry Seymour Conway.—Arlington-street, July 14, 1761.

"The King's marriage was kept the profoundest secret till last Wednesday, when the privy council was extraordinarily summoned and it was notified to them. Since that, the new queen's mother is dead, and will delay it a few days; but lord Harcourt is to sail on the 27th, and the coronation will certainly be on the 22nd of September."

September 9, 1761.

"The Queen is come: I have seen her, and have been presented to her. The yachts made the coast of Suffolk last Saturday, on Sunday entered the road of Harwich, and on Monday morning the princess landed. Yesterday at a quarter after three she arrived at St. James's. In half an hour one heard of nothing but proclamations of her beauty: every body was content, every body pleased. At seven one went to court. The night was sultry. About ten the procession began to move towards the chapel, and at eleven they all came up into the drawing room. She looks very sensible, cheerful, and is remarkably genteel. Her tiara of diamonds was very pretty, her stomacher sumptuous; her violet-velvet mantle and ermine so heavy, that the spectators knew as much of her upper half as the King himself. You will have no doubts of her sense by what I shall tell you. On the road they wanted her to curl her toupet: she said she thought it looked as well as that of any of the ladies sent to fetch her; if the King bid her, she would wear a periwig, otherwise she would remain as she was.

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"It has been my earnest wish, that this first period of my reign might be marked with another felicity, the restoring of the blessings of peace to my people, and putting an end to the calamities of war, under which so great a part of Europe suffers: but though overtures were made to me, and my good brother and ally the king of Prussia, by the several belligerent powers, in order to a general pacification, for which purpose a congress was appointed, and propositions were made to me by France, for a particular peace with that crown, which were followed by an actual negociation; yet that congress hath not hitherto taken place, and the negociation with France is entirely broken off.*

"The sincerity of my disposition to effectuate this good work, has been manifested in the progress of it: and I have the consolation to reflect, that the continuance of the war, and the farther effusion of Christian blood, to which it was the desire of my heart to put a stop, cannot with justice be imputed to me.

"Our military operations have been in no degree suspended or delayed; and it has pleased God to grant us farther important successes, by the conquests of the islands of Belleisle and Dominica, and by the reduction of Pondicherry, which hath in a manner annihilated the French power in the East Indies. In other parts, where the enemies numbers were greatly supe-

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When she caught the first glimpse of the palace, she grew frightened and turned pale; the duchess of Hamilton smiled—the princess said, "My dear duchess, you may laugh, you have been married twice, but it is no joke to me." Her lips trembled as the coach stopped, but she jumped out with spirit, and has done nothing but with good humour and cheerfulness. At first, when the bride-maids and the court were introduced to her, she said, "Mon Dieu, il y en a tant, il y en a tant!" She was pleased when she was to kiss the peeresses; but lady Augusta was forced to take her hand and give it to those that were to kiss it, which was prettily humble and good-natured. While they waited for supper, she sat down, sang, and played. Her French is tolerable, she exchanged much of that and German, with the King, the Duke, and the duke of York. To-day was a drawing room: every body was presented to her; but she spoke to nobody, as she could not know a soul. The King looked very handsome, and talked to her continually with great good humour. It does not promise as if they two would be the two most unhappy persons in England." Lord Orford's Works, vol. 5, p. 80.

* "Mr. Pitt now saw, and felt the strength of the new King's party. He did not, however, resign upon this check; because his grand object was Spain. His design was, by an early and vigorous exertion, to cripple that power. He did not suspect the House of Bourbon to have so many friends in England as he afterwards found. The king of Spain had, at this time, an immense treasure at sea, coming from America. He was sensible the king of Spain would not declare himself until that treasure had arrived. Mr. Pitt's design was to intercept it, and bring it to England. He was confident of the hostile intentions of Spain. The plan of union, which had been negociating between the courts of France and Spain all the summer at Paris, was now completed: and Mr. Pitt had been furnished with a copy of this treaty of alliance, which included all the branches of the House of Bourbon, and is commonly called the Family Compact. He communicated to the cabinet his resolution of attacking Spain. Lord Bute was the first person who opposed it; he called it rash and unadvisable. Lord Granville thought it precipitate, and desired time to consider of it. Lord Temple supported Mr. Pitt, which he had done uniformly from his coming into office. The duke of Newcastle was neuter. The Chancellor was absent. Lord Temple and Mr. Pitt submitted to his Majesty their advice in writing, signed by themselves, to recall lord Bristol (the British ambassador) from Madrid. This was on the 18th of September, 1761.

"A few days afterwards a second cabinet was summoned upon the same subject. All the cabinet ministers were present. Mr. Pitt asserted that he did not ground his resolution of attacking Spain upon what the court of Spain had said or might say, but upon what that court had actually done. The majority said they were not yet convinced of the necessity or propriety of his measure; and the cabinet broke up without coming to any resolution. In a few days more a third cabinet was summoned upon this subject. Mr. Pitt and lord Temple insisted upon the necessity of recalling lord Bristol. Every other member of the cabinet now declared against the measure; upon which Mr. Pitt and lord Temple took their leaves. Lord Granville (the lord president) regretted that they were going to lose Mr. Pitt and his noble relation. He spoke highly of Mr. Pitt's penetration and integrity, but on this occasion he thought him mistaken, for the best accounts from Spain justified a contrary opinion. His Majesty having rejected the written advice of Mr. Pitt and lord Temple, they resigned on the 5th of October, 1761." Life of Lord Chatham.

"To the surprise of all who were unacquainted with his motives, Mr. Pitt proposed in the cabinet to order lord Bristol to withdraw from Madrid; and presented a bold and extensive plan of operations against the trade, colo-

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rior, their principal designs and projects have been generally disappointed, by a conduct which does the highest honour to the distinguished capacity of my general, prince Ferdinand of Brunswick, and by the valour of my troops. The magnanimity and ability of the king of Prussia have eminently appeared, in resisting such numerous armies, and surmounting so great difficulties.

"In this situation, I am glad to have an opportunity of receiving the truest information of the sense of my people, by a new choice of their representatives. I am fully persuaded you will agree with me in opinion, that the steady exertion of our

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nies, and wealth of Spain. This proposition was delivered in writing, and signed by Mr. Pitt and lord Temple, as advice to the King. It was debated with great warmth at three several councils, called for the express purpose; but the cabinet remaining unconvinced by the arguments adduced in favour of the plan, Mr. Pitt and Lord Temple declared their resolution to resign. Mr. Pitt said, "he was called to the ministry by the voice of the people, to whom he considered himself as accountable for his conduct: and he would not remain in a situation which made him responsible for measures he was no longer allowed to guide." To this intemperate and unwarrantable declaration, lord Granville, president of the council, replied, "I can hardly regret the right honourable gentleman's determination to leave us, as he would otherwise have compelled us to leave him; but if he be resolved to assume the right of advising his Majesty, and directing the operations of the war, to what purpose are we called to this council? When he talks of being responsible to the people, he talks the language of the House of Commons, and forgets, that at this board he is only responsible to the King. However, though he may possibly have convinced himself of his infallibility, still it remains that we should be equally convinced, before we can resign our understandings to his direction, or join with him in the measure he proposes."

"Mr. Pitt, in pursuance of his resolution, went to St. James's and resigned the seals, which the King received with ease and firmness, without requesting him to resume his office. His Majesty expressed concern at the loss of so able a minister; and to shew the favourable sense he entertained of his services, made him a gracious and unlimited offer of any rewards in the power of the crown to bestow; at the same time he avowed himself satisfied with the opinion of the majority of the council, and declared he should have found himself under the greatest difficulty had they concurred as fully in supporting as they had in rejecting the measure proposed. Mr. Pitt was sensibly touched with the grandeur and condescension of this proceeding: "I confess, Sire," he said, "I had but too much reason to expect your Majesty's displeasure. I did not come prepared for this exceeding goodness—pardon me, Sire, it overpowers—it oppresses me."

"The next day arrangements were made for Mr. Pitt's retreat from office. A pension of 3,000*l.* a year for three lives was settled on him, and a title conferred on his lady and her issue. Lord Egremont was appointed his successor; and, shortly afterwards the duke of Bedford lord privy seal." Adolphus.—See also Annual Register, 1761, p. 44, and Gentleman's Magazine, 1761, p. 546.

Mr. Pitt stated the cause of his resignation in the following Letter to the town-clerk of the city of London:

"Dear Sir,

"Finding, to my great surprise, that the cause and manner of my resigning the seals is grossly misrepresented in the city, as well as that the most gracious and spontaneous marks of his Majesty's approbation of my services, which marks followed my resignation, have been infamously traduced, as a bargain for my forsaking the public, I am under the necessity of declaring the truth of both these facts in a manner which I am sure no gentleman will contradict: A difference of opinion with regard to measures to be taken against Spain; of the highest importance to the honour of the crown, and to the most essential national interests, and this founded on what Spain had already done, not on what that court may farther intend to do, was the cause of my resigning the seals. Lord Temple and I submitted in writing, and signed by us, our most humble sentiments to his Majesty, which being over-ruled by the united opinion of all the rest of the King's servants, I resigned the seals on Monday the 5th of this month, in order not to remain responsible for measures which I was no longer allowed to guide.—Most gracious public marks of his Majesty's approbation of my services followed my resignation. They are unmerited, and unsolicited; and I shall ever be proud to have received them from the best of sovereigns.

"I will now only add, my dear Sir, that I have explained these matters only for the honour of truth, not in any view to court return of confidence from any man, who, with a credulity as weak as it is injurious, has thought fit hastily to withdraw his good opinion from one who has served his country with fidelity and success; and who justly reveres the upright and candid judgment of it, little solicitous about the censures of the capricious and the ungenerous. Accept my sincerest acknowledgments for all your kind friendship, and believe me ever with truth and esteem, my dear Sir, your faithful friend,

"Hayes, Oct. 15, 1761. W. Pitt."

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most vigorous efforts, in every part, where the enemy may still be attacked with advantage, is the only means that can be productive of such a peace as may with reason be expected from our successes. It is, therefore, my fixed resolution, with your concurrence and support, to carry on the war in the most effectual manner, for the interest and advantage of my kingdoms; and to maintain, to the utmost of my power, the good faith and honour of my crown, by adhering firmly to the engagements entered into with my allies. In this I will persevere, until my enemies, moved by their own losses and distresses, and touched with the miseries of so many nations, shall yield to the equitable conditions of an honourable peace; in which case, as well as in the prosecution of the war, I do assure you, no consideration whatever shall make me depart from the true interests of these my kingdoms, and the honour and dignity of my crown.

"Gentlemen of the House of Commons;

"I am heartily sorry, that the necessity of large Supplies appears so clearly, from what has already been mentioned. The proper Estimates for the services of the ensuing year shall be laid before you; and I desire you to grant me such supplies, as may enable me to prosecute the war with vigour, and as your own welfare and security, in the present critical conjuncture, require; that we may happily put the last hand to this great work. Whatsoever you give, shall be duly and faithfully applied.

"I dare say, your affectionate regard for me and the Queen, makes you go before me in what I am next to mention; the making an adequate and honourable provision for her support in case she should survive me. This is what, not only her royal dignity, but her own merit, calls for; and I earnestly recommend it to your consideration.

"My Lords, and Gentlemen,

"I have such a confidence in the zeal and good affections of this parliament, that I think it quite superfluous to use any exhortations to excite you to a right conduct: I will only add, that there never was a situation in which unanimity, firmness, and dispatch, were more necessary for the safety, honour, and true interest of Great Britain."

The Lords' Address of Thanks.] His Majesty having retired, the Earl of Northumberland moved the following Address, which was agreed to:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious Speech from the throne.

"It is impossible to approach your royal presence, at this time, without making our first offering to your Majesty of our most joyful congratulations on the auspicious occasion of your royal Nuptials: we want words to describe how warmly we are affected with an event so highly interesting to your Majesty and to all your faithful subjects; or to express our gratitude to your Majesty, for giving us a Queen, who, whilst she completes your happiness, promises, by every virtue and amiable accomplishment, the greatest addition to that of your people. May heaven grant the longest duration to this felicity! and may it be attended with a numerous progeny, to transmit the great examples of their illustrious parents, and perpetuate the blessings of your reign to future ages.

"We thankfully acknowledge your Majesty's goodness, in communicating to us, that overtures had been made, by the several belligerent powers, in order to a general pacification; and by France, for a particular peace between your Majesty and that crown; whereupon a negociation had followed, which is since entirely broke off. No other proof could be wanting to us, that the continuance of the war, and the effusion of Christian blood, cannot with any shadow of justice be imputed to your Majesty, besides the known generosity and benevolence of your own innate disposition.

"Your royal wisdom has appeared in nothing more, than in not suffering your military operations to be suspended or delayed. And we beg leave to congratulate your Majesty on the present signal successes of your arms: besides the important conquests with which they have been blessed, your enemies have in other parts been made once more to feel, that superior numbers cannot avail them, against the superior capacity and conduct of your consummate general, prince Ferdinand of Brunswick, and the unshaken bravery of your officers and troops. We cannot see without admiration those repeated proofs of magnanimity and ability which your great ally the king of Prussia, though surrounded with so many difficulties, has given to the world.

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"Your Majesty's sentiments cannot fail to have the greatest weight with us, because we are sure that they proceed upon wise principles, founded in the love of your people. It is, therefore, from conviction that we declare our humble concurrence in your opinion, that it is necessary steadily to exert our most vigorous efforts in every part where the enemy may still be attacked with advantage.

"We beg your Majesty to accept the strongest and most affectionate assurances, that we will, with the greatest zeal and ardour, and at the hazard of every thing that is dear to us, stand by and support your Majesty, in prosecuting the war in the most effectual manner for the interest of your kingdoms, and in performing, to the utmost of your power, your engagements to your allies; nothing being more evident than that this is the only method to procure such equitable and honourable conditions of peace as may with reason be expected from our successes.

"We should be greatly wanting to ourselves, as well as to your Majesty, if we did not testify our particular thanks for your paternal goodness, in having so expressly declared, that, both in carrying on the war and in making peace, no consideration whatsoever shall make you depart from the true interests of these your kingdoms and the honour of your crown.

"This resolution, so truly worthy of a British monarch, and so engaging to all your loyal subjects, calls for adequate returns on our part. Penetrated with the liveliest sense of your unbounded tenderness and concern for our welfare, we do, from the bottom of our hearts, assure your Majesty, that we will, with the utmost duty and zeal, correspond to that confidence which your Majesty reposes in us; being fully persuaded of the necessity of unanimity, firmness, and dispatch, in the present critical situation, and animated thereto by the gracious admonition of the best of kings."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I thank you for this very dutiful and loyal Address. The joy which you express upon my Marriage, and your affectionate regard for the Queen, give me the highest satisfaction. I make no doubt but your ready concurrence in my sentiments, and the becoming zeal which you have so unanimously declared for carrying on the war with vigour, will have a good effect both upon our friends and enemies, and strengthen my hands to pursue such measures as may be most conducive to the true interests of my kingdoms."

Message of Congratulation from the Lords to the Queen.] The Lords also ordered, that a Message be sent from this House to the Queen, "Humbly to present to her Majesty our most sincere and joyful congratulations on the auspicious occasion of her royal Nuptials; and to assure her Majesty of the dutiful and cordial part which this House takes, in this completion of his Majesty's happiness, the additional felicity which it brings to his kingdoms, and of our high satisfaction and exultation in seeing so illustrious and amiable a Queen amongst us."

The Queen's Answer.] Her Majesty returned this Answer:

"My Lords;

"I return you my hearty thanks, for these most affectionate congratulations. Nothing will add more to my own happiness, than the having it in my power to contribute in the smallest degree to the welfare and prosperity of this great kingdom."

The Commons' Address of Thanks.] November 13. The King's Speech was taken into consideration, when the following Address, moved by lord Midleton, was agreed to:

"Most Gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your Majesty the most humble and hearty thanks of this House, for your most gracious Speech from the throne.

"Permit us, at the same time, to offer to your Majesty our warmest congratulations on the joyful and auspicious event of your royal Nuptials, with a Princess descended from an illustrious Protestant line, distinguished by the most eminent graces and endowments, and worthy to be the royal partner of your throne by possessing every virtue that can adorn it.

"We beg leave also to express our just sense of that affectionate regard, which your Majesty has shewn for your people by consulting, on this important and interesting occasion, as on every other, their happiness and that of their posterity. And we assure your Majesty, that with

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hearts full of gratitude for this signal instance of your royal attention to the welfare of your subjects, and thoroughly sensible of the exalted merit of your illustrious consort, your faithful Commons will not fail to make such honourable and ample provision, as may enable her to support her royal dignity with proper lustre, in case she shall survive your Majesty; for the long continuance of whose life we shall never cease to offer up to Divine Providence our most ardent vows.

"Allow us, Sir, to return our sincere and humble thanks to your Majesty, for your tender concern for the prosperity of your people, in wishing to restore to them the blessings of peace; and to declare that we cannot too much admire that humanity, so becoming your royal breast, which, amidst the successes of your own kingdoms, feels for the calamities of other nations.

"We are fully persuaded, that these beneficent dispositions, which induced your Majesty to consent to the appointment of a congress for a general pacification, and to enter into a negociation with France for a particular peace, could not have failed of the desired effect, if the enemy, influenced by the same motives, had shewn the same good intentions, and would have complied with such conditions as were requisite for the accomplishment of that salutary work.

"We do most gratefully acknowledge your Majesty's vigilance and firmness, in not suffering the hopes or expectations of peace to produce the least suspence or relaxation in the exertion of your arms; and we congratulate your Majesty on those happy successes, which, under the good Providence of God, we must ascribe to the wisdom and vigour of your Majesty's measures, to which we owe the reduction of Dominica, the conquest of Belleisle, achieved with so much reputation to the British arms, and the destruction of the enemy's power in the East Indies, by the acquisition of Pondicherry, their last remaining settlement of any strength in those countries.

"The wise and able conduct of his serene highness prince Ferdinand of Brunswick, whereby he hath successively defeated the projects of the enemy, and hath prevented their making that progress, which, from their superior numbers, they expected, together with that gracious approbation which your Majesty hath been pleased to express, of the valour of your troops, cannot but give the highest satisfaction to your faithful Commons; and they see, with just admiration, the repeated proofs in every campaign, of that unshaken resolution, and of those astonishing efforts, which alone could have enabled your Majesty's great ally, the king of Prussia, to resist the numerous forces of his enemies.

"We beg leave to assure your Majesty of our entire concurrence and support in the most effectual prosecution of the war, for the interest and advantage of these kingdoms, and in maintaining, to the utmost of our power, the good faith and honour of your Majesty's crown, and the engagements entered into with your allies; and that we are truly sensible, that the constant care and attention of your Majesty to pursue the most vigorous measures in every part, where any successful impression can still be made upon the enemy, are the only means to attain that desirable object, an honourable and a lasting peace.

"We receive, with the deepest gratitude, that most endearing expression of your Majesty's unbounded goodness and affection towards this your native country, in the solemn declaration which your Majesty has been pleased to make, that, as well in the prosecution of the war as in the conclusion of the peace, no consideration whatever shall induce you to depart from the true interests of these your kingdoms, and from the honour and dignity of your crown.

"Your Majesty may be assured, that your faithful Commons will cheerfully grant such supplies, as the nature and extent of the several services shall be found to require; firmly relying on your Majesty's wisdom and justice, that they will be applied with the strictest economy, and in such a manner as may most effectually answer the great ends for which they shall be granted.

"We do with great truth assure your Majesty, that it is our most earnest desire, that this first parliament, convened by your royal authority, may, by their conduct, give your Majesty a happy proof of the zeal, the loyalty, and the affection of your people.

"Sensible of the difficult crisis in which we are assembled, we are determined to concur with the greatest firmness and unanimity, in whatever may contribute to the public welfare, may tend to defeat the views and expectations of our enemies, and may convince the world, that there are no

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difficulties which your Majesty's wisdom and perseverance, with the assistance of your parliament, cannot surmount."

The King's Answer.] His Majesty returned the following Answer:

"Gentlemen,

"I return you my hearty thanks for this very affectionate and dutiful Address. The early proofs of your most cordial attachment to me and to my family, upon the occasion of my Marriage; and the particular regard and attention which you express for the Queen, in a matter that so nearly concerns her, cannot but give me the most sensible satisfaction. The assurances of your steady and vigorous support must add the greatest weight to my endeavours for the public good, and will be the surest means of bringing the war, in which we are engaged, to such a conclusion, as is the constant object of my wishes, and will most effectually provide for the honour, happiness, and security of my kingdoms."

Message of Congratulation from the Commons to the Queen.] As soon as the Commons had agreed to the Address to the King, it was resolved, *nem. con.* "That a Message be sent to her Majesty, to congratulate her Majesty upon her royal nuptials; to express the unfeigned joy and satisfaction which this House feels upon seeing the most ardent wishes of a faithful people, (anxious not only for the present and future welfare of these kingdoms, but also for the immediate and domestic happiness of their excellent sovereign) so completely crowned by his Majesty's wise and happy choice of the royal partner of his throne; and to assure her Majesty of the most dutiful and zealous attachment of this House."

The Queen's Answer.] To which Address her Majesty gave this Answer:

"Gentlemen,

"I return you my hearty thanks for your affectionate congratulations; and I assure you, the happiness and prosperity of this kingdom will ever be the darling objects of my life."

The Queen's Jointure Bill passes the Commons.] November 19. The Commons took into consideration that part of the King's Speech which related to a provision for the Queen, and came to the following Resolutions: "1. That a provision be made for the Queen, in case she shall survive his Majesty, of 100,000*l.* per annum, during her life, to support her royal dignity, together with his Majesty's palace of Somerset-house, and the Lodge and lands at Richmond Old Park. 2. That his Majesty be enabled to charge the said 100,000*l.* per annum, upon all or any part of such of the revenues, which, by an Act made in the last session of parliament, intituled, An Act for the support of his Majesty's houshold, and of the honour and dignity of the crown of Great Britain, were directed to be, during his Majesty's life, carried to, and made part of the aggregate fund, as shall be subsisting after his Majesty's demise; and to charge all, or any part of the aggregate fund, as a collateral security for making good the said annuity."

A Bill pursuant to the above Resolutions was ordered to be brought in, which passed the Commons on the 26th, and was ordered to the Lords.

The Speaker's Speech to the King on presenting the Queen's Jointure Bill.] December 2. The King came to the House of Peers, though this was the only Bill ready, and the Commons being sent for,

Mr. *Speaker*, upon presenting this Bill, addressed himself to his Majesty as follows:

"Most Gracious Sovereign,

"It has been the first care of your faithful Commons, to take into their consideration what your Majesty most affectionately recommended to them from the throne, namely, the enabling your Majesty to make that provision for the Queen, in case she shall survive you, to which her royal dignity, and her own merit, give her the justest claim.

"On such an occasion, I should ill discharge the trust which has lately been reposed in me by the Commons, and most graciously confirmed by your Majesty, if I omitted to assure you, that they feel the warmest sentiments of gratitude to your Majesty, who have made their happiness, and that of their posterity, your principal object: of this your Majesty has given abundant proof, by your royal nuptials with a princess, whose illustrious ancestors were early assertors of the civil and religious liberties of mankind; and, in consequence, closely attached to your Majesty's family; a princess, whom, the most dis-

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tinguished virtues, and amiable endowments, pointed out to your Majesty's choice, and made the partner of the brightest crown in Europe.

"I cannot but esteem it a very singular honour and happiness to myself, that the first Bill, which, by command of the Commons, I present to your Majesty, is a Bill, in which they have, with the greatest zeal and unanimity, endeavoured to testify their duty to your Majesty and your royal consort; and that it is no less acceptable to your Majesty than to your Commons, and all whom they represent.

"But, Sir, though they have passed it with the utmost expedition which their forms allow, yet it is matter of real satisfaction to them, that they can entertain the most pleasing and well-founded hope, that it will be a long course of years before it can have any effect; and the domestic happiness of the Queen is so inseparably connected with the public interests of your people, that, on the behalf of her Majesty, as well as of every subject of your realm, your faithful Commons will never cease to implore the Almighty, that he will be pleased to distinguish this nation by his divine favour and protection, in prolonging your Majesty's happy reign beyond an ordinary date; and that, if ever the provision of this Bill shall become effectual, it may be lamented only by their posterity.

"The Bill, Sir, which I have in my hand, is intituled, An Act for enabling his Majesty to make provision for supporting the royal dignity of the Queen, in case she shall survive his Majesty. To which your Commons, with all humility, beseech your Majesty's royal assent."

His Majesty then gave the royal assent to the Bill.*

Motion in the Commons for Papers relative to Spain.] December 11. Mr. Cooke moved, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions, that there be laid before this House, copies of all Memorials delivered by count de Fuentes to his Majesty's ministers, relating to the demand of liberty to the Spanish nation to fish on the banks of Newfoundland; and also copies of all Memorials delivered by the said embassador of Spain to his Majesty's ministers, relating to the destruction and evacuation of any establishments made by British subjects on the coasts of Honduras, and relating to the right of cutting logwood there; and also copies of all Memorials delivered by count de Fuentes to his Majesty's ministers, demanding restitution of the prizes taken during this war on the subjects of Spain, together with copies of the Answers given by the court of Great Britain to the court of Spain on the three above demands."

Mr. *Pitt* supported this motion. He did not wish to have any part of his conduct covered or concealed from the public. On the contrary, he wished to lay open and reveal both the motives and actions of every part of his administration. He pressed with honest zeal the laying before the House every paper relative to what he called a six years negociation with Spain, that the justice and candour of the crown of England on the one hand, and the chicanery, insolence, and perfidy of Spain, on the other, might be apparent. Much stress, he added, had been laid without doors, on his refusing the memorial offered by M. Bussy, relative to the concerns of Spain. In refusing that memorial, he said, he had followed the precedent of the court of Spain, which had returned as inadmissible a memorial of the King of Great Britain. He thought it was of consequence to the House to know both the matter and the expressions of that memorial, as it related to one of the three points in negociation.

But upon calling for the question, a negative was put upon the motion. The debate being over,

Mr. *Fox* stood up, and said, 'That if any particular paper necessary to the vindication of certain persons was specifically moved for, it would be given.'

Mr. *Pitt* treated this as a captious offer: he saw through its fallacy, and refused to accept it. What he earnestly wished for, was, all the papers relative to the six years negociation, which having been refused, he said, The gentleman who made the offer, very well knew, that he (Mr. Pitt) could not mark out, nor call in a parliamentary way, for a specific paper, with the contents of which he had been entrusted before, by the King, under the seal of secrecy.*

* When the Bill received the royal assent, the Queen was in the House of Lords, and testified her satisfaction and gratitude by a graceful obeisance to the King.

* "Motions to the same effect were made in the House of Lords after the recess:

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1762.

The King's Speech concerning a War with Spain.] January 19, 1762. The King came to the House of Peers, and delivered the following Speech to both Houses:

"My Lords, and Gentlemen,

"I have so often assured you of my sincere disposition to put an end to the calamities of war, and to restore the public tranquillity on solid and lasting foundations, that no impartial person, either at home or abroad, can suspect me of unnecessarily kindling a new war in Europe. But it is with concern I acquaint you, that, since your recess, I have found myself indispensably obliged to delare war against Spain. The causes are set forth in my public declaration on this occasion; and therefore I shall not detain you with a repetition of them. My own conduct since my accession to the throne, as well as that of the late king my royal grandfather, towards Spain, has been so full of good-will and friendship, so averse to the laying hold of several just grounds of complaint, which might have been alleged, and so attentive to the advantages of the Catholic king and his family, that it was matter of the greatest surprize to me, to find that engagements had, in this conjuncture, been entered into between that crown and France, and a treaty made to unite all the branches of the House of Bourbon in the most ambitious and dangerous designs, against the commerce and independency of the rest of Europe, and particularly of my kingdoms.

"Whatever colours may be endeavoured to be put upon these injurious proceedings of the court of Madrid, I have nothing to reproach myself with; and though I have left nothing untried, that could have prevented this rupture, I have thought it necessary to prepare against every event.

"I therefore rely on the Divine blessing, on the justice of my cause, the zealous and powerful assistance of my faithful subjects, and the concurrence of my allies, who must find themselves involved in the pernicious and extensive projects of my enemies.

"I leave these considerations with you; full of the justest confidence, that the honour of my crown, and the interests of my kingdoms, are safe in your hands."

The Lords' Address of Thanks thereon.] His Majesty having retired, their lordships agreed upon the following Address:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, beg leave to return your Majesty our humble thanks, for your most gracious Speech from the throne.

"We have had so many proofs of your Majesty's paternal love of your people, and of the goodness and true greatness which inspire your royal breast, that we are fully convinced of your Majesty's sincere desire to put an end to the calamities of war; and that your Majesty has left nothing untried, in order to avoid, if possible, the necessity of extending it: we cannot, therefore, but express the utmost surprise and indignation at the injurious and unprovoked proceedings of the court of Spain, which have rendered ineffectual your Majesty's salutary endeavours; and particularly at the late engagements entered into between that crown and France, so inconsistent with their solemn and repeated

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lord Temple vindicated the conduct of himself and Mr. Pitt in resigning, and intimated that a knowledge of the existence of the Family Compact, was the foundation of their advice. Lord Bute positively asserting that there was no intelligence of such a fact, so constituted, at that time, as to be depended on; challenged him to produce it, and required to know where it might be found, that he might request the King to order it to be laid before the House. Lord Temple quitting his seat, said, he was not at liberty to publish that intelligence, but would refresh his lordship's memory in private. A short whispering took place between the two peers. It is averred, on the one hand, that lord Bute was perfectly satisfied of the correctness of lord Temple's assertion; on the other, and with more appearance of probability, that the result of their conversation was not productive of such conviction. It naturally occurs on such an occasion to ask, why lord Temple did not justify himself in his place? Why he did not persevere in stating to the whole House that he had the means of proving what he advanced, if lord Bute would procure his Majesty's dispensation from the effect of his oath as privy counsellor? It is even averred, that the assertion which gave rise to this extraordinary scene was often repeated in the course of the debates on the production of papers; but never, in any manner, repelled by lord Temple. The papers were laid before parliament and printed." Adolphus. See also History of the late Minority, p. 33; and Almon's Biographical Anecdotes, vol. 2, p. 6.

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professions of amity, so contrary to the treaties actually subsisting between your Majesty and the Catholic king, and so prejudicial, not only to the true interest of these kingdoms, but also of the Spanish nation itself.

"With hearts full of gratitude, we acknowledge your Majesty's wisdom and vigilance for the security of your people, in taking effectual care, at the same time that the preventing of a rupture was the great object of your Majesty's attention, to be prepared, however, and ready for every event.

"Animated with the warmest zeal for the defence of the honour of your Majesty's crown, and the undoubted rights of your people, though free from any view of encroaching on those of other nations; we have a lively sense of the dangers which threaten your Majesty's kingdoms, as well as the commerce and independency of the rest of Europe, from the ambitious and extensive designs of the confederacy now formed between the several branches of the House of Bourbon: and we beseech your Majesty to accept the strongest and most affectionate assurances, that we will, with the utmost ardour, assist and support your Majesty in repelling and suppressing the pernicious effects, so greatly to be apprehended from this union; and that we will readily concur in such measures, as may enable your Majesty to prosecute the war with vigour, until just and honourable conditions of peace can be obtained."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I return you my hearty thanks for this Address. The affectionate assurances you give me, of your support and assistance in the vigorous prosecution of this necessary war, are very agreeable to me; and cannot fail of producing the most salutary effects."

The Commons' Address of Thanks thereon.] The Commons being returned to their House, the following Address, moved by lord North, was agreed to:

"Most gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, humbly beg leave to return your Majesty the Thanks of this House for your most gracious Speech from the throne; and for having been pleased to communicate to this House the motives which have obliged your Majesty to declare war against Spain; a measure which hath been rendered unavoidable by the offensive conduct of that court; the great armaments made in Spain, both by sea and land; and by the repeated denials of those explanations; and of that just satisfaction which your Majesty, for the security of your kingdoms, had so much reason to demand.

"We see, with the greatest concern, that influence which hath unhappily prevailed in the court of Spain; and which hath determined them no longer to disavow their hostile intentions, but to come to extremities, contrary to the real interest of both nations.

"We acknowledge, with the warmest sentiments of gratitude and duty, the many signal instances of your Majesty's moderation, and your tender concern for your people, in your constant endeavours to prevent this rupture, if it had been possible: and we beg leave to express our intire satisfaction at the preparations which your Majesty, in your royal wisdom, hath in the mean time directed to be made for that event.

"Your Majesty may be assured, that, thoroughly sensible of the dangers with which the ambitious designs and union of the House of Bourbon threaten the commerce and independency of these kingdoms, and the rest of Europe; your faithful Commons will, with the utmost firmness and vigour, steadily support your Majesty in the prosecution of this just and necessary war, and in your unwearied endeavours to procure for your people the blessing of a safe and honourable peace."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I return you my hearty thanks for this seasonable and affectionate Address. The assurances contained in it give me the highest satisfaction; and your firmness and resolution to support me, will, I trust, enable me to defeat the ambitious designs of our enemies, and most effectually contribute to that salutary end which we desire."

PAPERS RELATIVE TO THE RUPTURE WITH SPAIN.] January 29. The following Papers relating to the Rupture with Spain, were laid, by his Majesty's command, before both Houses:

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Papers relative to the Rupture with Spain.

Extract of a Letter from Mr. Secretary Pitt, to the Earl of Bristol, dated Whitehall, 28 July, 1761.

With regard to the strange idea of the proposed guaranty of Spain, mentioned in Mr. Stanley's dispatches, as also with respect to the engagements with Spain, concerning our disputes with that crown, which the duc de Choiseul now avows to have been taken before the first overtures of France, for the particular peace with England, and which consequently had been from that time as disingenuously suppressed, as they were in the moment insolently produced; the King's servants were unanimously of opinion utterly to reject the thought of suffering those disputes to be mixed in the negociation with France; and submitted to his Majesty, that a peremptory declaration, to that effect, should be made to M. de Bussy, giving that minister withal clearly to understand, that it would be considered here as offensive to the dignity of the King, that farther mention should be made of such an idea, and that it is likewise understood here, that France at no time has a right to meddle in such discussions between Great Britain and Spain.

I am now to acquaint your excellency, that M. de Bussy did not come to me till last Thursday morning, when, after delivering to me the same Memorial which Mr. Stanley had received from the duc de Choiseul, and transmitted to me, he also gave me two supplemental Memorials of a most extraordinary nature, copies whereof I send your excellency inclosed, together with a copy of my letter to that minister, returning the two said Memorials, as totally inadmissible.

With regard to the Memorial relative to the disputes between England and Spain, that piece will best speak its own enormity, and the extreme offensiveness of the matter which it contains; at the same time my letter, by order of the King, to M. de Bussy, sending back the said Memorial, will sufficiently convey to your excellency the just sensations which such a paper has excited here in the breast of every one to whom it was imparted.

It is the King's pleasure, therefore, that your excellency should immediately communicate to M. Wall the above-mentioned Memorial, together with my letter to M. de Bussy returning the same; and in case the Spanish minister shall avow that this strange piece has really been authorised by the court of Madrid, your excellency will remonstrate, with energy and firmness, the unexampled irregularity of such a proceeding on the part of Spain, not only still in amity with Great Britain, (though discussions of difficulty unluckily engage the two courts) but whose intercourse has hitherto professed itself to be friendly, and whose declared aims have all along seemed to point to an amicable adjustment of the long subsisting disputes relating to the coasts of Honduras, &c. by some equitable regulation of the enjoyment of the privilege of cutting logwood by the subjects of Great Britain; you will farther express with the utmost seriousness to M. Wall, that nothing can equal the King's surprise and regret at a transaction so unprecedented, except his Majesty's steady purpose, and immoveable determination, not to be diverted, by any considerations, from that even tenor of conduct towards Spain, which his just and constant care of his people dictates, and which his royal wisdom and magnanimity have hitherto pursued.

On the one hand then, his Majesty will by no means add facilities for the satisfaction of that court, in consideration of any intimation, on the part of a hostile power, of union of councils, or of present or future conjunctions; nor, on the other hand, will his Majesty's equity and moderation cease to dispose his royal mind to the same reasonable terms of accommodation with Spain, with regard to such objects, and in such manner, as the King, excited by inclination and determined by system, has, through the course of this negociation, invariably declared himself ready to embrace.

As to the three points mentioned in this Memorial; first, concerning the restitution of prizes made against the flag of Spain, or supposed to have been taken in violation of the territory of that kingdom, it suffices to say, That the courts, here instituted to take cognizance of all matters of such a nature, are always open to the parties who think fit to seek redress in due course of justice; and it is superfluous to observe, that the ministers of his most Christian majesty are not a tribunal to which Great Britain allows an appeal.

Next, as to the stale and inadmissible pretensions of the Biscayans and Guispuscoans to fish at Newfoundland, on which important point your excellency is alrea-

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dy so fully instructed, you will again on this occasion let M. Wall clearly understand, that this is a matter held sacred; and that no concession on the part of his Majesty, so destructive to this true and capital interest of Great Britain, will be yielded to Spain, however abetted and supported: and it is still hoped, that prudence as well as justice will induce that court no longer to expect, as the price of an union which it is at least as much her interest as ours to maintain inviolate, a sacrifice which can never be thought of.

Thirdly, with regard to disputes relative to the logwood coasts, the King will still receive with pleasure, agreeable to his Majesty's repeated declarations to the court of Spain, any just overtures on the part of his Catholic majesty (provided they be not conveyed through the channel of France, by whose intervention the King will never treat of these disputes) for amicably adjusting the same, and for removing effectually every source of reasonable complaint or dispute on this head, by terminating to mutual satisfaction all things relating thereto by a candid and equitable regulation.

After the above Memorial of France, and the intimation therein, little short of a declaration of a war in reversion, and that not at a distance, held out *in terrorem* on the part of France and Spain, M. Wall cannot wonder that your excellency is ordered by his Majesty, as you hereby are, to desire again, in this conjuncture, a proper explanation with regard to the naval armaments that have been so long preparing in the various ports of Spain; and his excellency cannot but himself be sensible how strongly the King is called upon, in the order of things, and from the indispensable motives of what he owes to his crown and people, to expect that the court of Madrid will come to some explicit and categorical eclaircissement with regard to the destination of her fleets, as well as with respect to her dispositions to maintain and cultivate friendship and good correspondence with Great Britain: and this measure is become the more highly necessary, as the emissaries and partizans of France here are not a little active in endeavouring to infuse, particularly into people's minds in the city, for purposes too obvious to mention, that a rupture with Spain, in conjunction with France, is approaching.

Although in the course of this instruction to your excellency, I could not, with such an insolent memorial from France before me, but proceed on the supposition, that, insidious as that court is, she should not dare to commit in such a manner the name of his Catholic majesty, without being authorized thereto: I must not however, conceal from your excellency, that it is thought possible here that the court of France, though not wholly unauthorised, may, with her usual artifice in negociation, have put much exaggeration into this matter; and in case, upon entering into remonstrance on this affair, you shall perceive a disposition in M. Wall to explain away and disavow the authorization of Spain to this offensive transaction of France, and to come to categorical and satisfactory declarations relative to the final intentions of Spain, your excellency will, with readiness and your usual address, adapt yourself to so desirable a circumstance, and will open to the court of Madrid as handsome a retreat as may be, in case you perceive from the Spanish minister that they sincerely wish to find one, and, to remove, by an effectual satisfaction, the unfavourable impressions which this memorial of the court of France has justly and unavoidably made on the mind of his majesty.

MEMORIAL relating to Spain, delivered to Mr. Secretary Pitt by M. de Bussy, July 23rd, 1761.

As it is essential, even as France and England desire it, that the projected treaty of peace should serve as a basis to a solid reconciliation between the two crowns which may not be disturbed by the interests of a third person, and the engagements which the one or the other court may have taken prior to their reconciliation, the king of Spain shall be invited to guaranty the treaty of future peace between the king and the King of Great Britain. This guaranty will obviate present and future inconveniences with regard to the solidity of the peace.

The king will not conceal from his Britannic Majesty, that the differences of Spain with England alarm him; and make him fear, if they were not adjusted, a new war in Europe and in America. The king of Spain has trusted to his Majesty the three points of dissention which subsist between his crown and the British crown, which are,—First, the restitution of some prizes made during the present war on his Catholic majesty's flag, and the satisfaction due for the violation of the

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Spanish territory by the English navy.—Second, the liberty to the Spanish nation of the fishery on the bank of Newfoundland.—Third, the destruction of the English establishments formed on the Spanish territory in the bay of Honduras.

These three articles may easily be adjusted according to the justice of the two sovereigns: and the king earnestly wishes that some medium may be found, which may content the Spanish and English nations on these two points; but he cannot conceal from England the danger which he sees, and of which he shall be obliged to partake, if these objects, which appear sensibly to affect his Catholic majesty, should end in war. Therefore his majesty thinks it a primary consideration, for the advantage and the solidity of the peace, that, at the same time that this desirable blessing shall be concluded between France and England, his Britannic Majesty may terminate his differences with Spain, and may consent that his Catholic majesty shall be invited to guaranty the treaty which is to reconcile, God grant for ever, the king and the King of England.

As to the rest, his majesty does not trust his fears in this respect to the court of London, but with the most upright and the most frank intentions to prevent every thing which may disturb, for the future, the union of the French and English nations; and he desires his Britannic Majesty, whom he supposes animated with the same desire, to acquaint him naturally with his opinion on so essential an object.

LETTER from Mr. Secretary Pitt to M. de Bussy.

Whitehall, July 24, 1761.

Sir; having explained myself, in our conversation of yesterday, on certain engagements of France with Spain, concerning the discussions between this last crown and Great Britain, the which your court did not, till this moment, announce to us had been taken before their first proposals were made here for the particular peace of the two crowns; and as you desired, for the greater exactness, to take a note of what passed between us on so weighty a subject, I renew to you, Sir, by order of the king, word for word, the same declaration which I made to you yesterday; and apprizing you again of the king's most sincere sentiments of friendship and real consideration towards his Catholic majesty in every thing that is reasonable and just, I am again most plainly to declare to you, in the name of his Majesty, that he will not suffer the disputes with Spain to be mixed in any shape whatsoever with the negociation of the peace of the two crowns; to which I am to add, that it will be even considered as offensive to the dignity of the king, and not compatible with the good faith of the negociation, to make further mention of such an idea.

Moreover, it is not understood that France has, at any time, a right to intermeddle in like discussions between Great Britain and Spain.

Such just and indispensible considerations have determined the King to order me to send you back the inclosed memorial concerning Spain, as totally inadmissible.

I also send you back, Sir, as totally inadmissible, the memorial relating to the king of Prussia, as affecting the honour of Great Britain, and the unshaken fidelity with which his majesty will fulfil his engagements with his allies. I have the honour to be, &c. W. PITT.

Extract of a LETTER from the Earl of Bristol to Mr. Secretary Pitt, dated Segovia, August 31, 1761. Received September 11th.

I must now acknowledge the receipt of a copy of your letter of the 24th of July to M. de Bussy, together with copies of two memorials presented by that minister, both of which performances you returned back as totally inadmissible.

A few hours after the messenger Ardouin arrived at Segovia, I went to St. Ildephonso, where I had passed a considerable time with gen. Wall; and as I have had four other conferences with his excellency since the first, I will set down, with the utmost precision in my power, all that has passed between us.

It was unnecessary for me to communicate what related to the negociations for peace with the court of Versailles, as the marquis Grimaldi had transmitted copies of that whole transaction; however, from my shewing a readiness to give that mark of his Majesty's confidence in the Spanish ministry, M. Wall told me, the Catholic king was truly sensible of his Majesty's great attention towards Spain, and was convinced the distance of England from hence occasioned this court's not receiving the earliest information from us of what was in agitation.

I then delivered to M. Wall the copy

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of the memorial relating to Spain, desiring him to read it over, and to acquaint me whether it was word for word such as had been authorized from hence; on returning it to me, his excellency said it was *verbatim* what had been sent by order of the Catholic king to Versailles; whereupon I read your letter to M. de Bussy in which the memorial was returned, saying, it was impossible for me to give a stronger idea of the impression that irregular proceeding had made in England, than by communicating to this court the manner in which such an unexampled overture had been received, looked into, and sent back, by the King's command.

Nothing has been omitted, on my part, to shew what an unparalleled proceeding this was from a king, not only in amity with Great Britain, but whose professions (notwithstanding the difficult discussions which had so long and so unhappily subsisted between the two crowns) had been uniformly calculated to convince my court, the only aim of that of Madrid was amicably to adjust our differences concerning the logwood coasts.

With relation to the idea of the proposed guaranty of Spain, I desired to know of M. Wall, wherefore a power that had no share in the war was to be invited to guarantee the future peace? And I entered very minutely into the engagements taken by Spain with France in regard to our disputes with the Catholic king; when I could not help expressing the truest regret to find, not only of how long standing those engagements were, from the duke of Choiseul's own confession, but also to perceive, they had been so industriously concealed during such a space of time, and to find them now produced in so insolent a manner by our enemies, because (for views too obvious to be mentioned) the French ministry looked upon that period as the most critical moment; yet I persuaded myself the proper reception this transaction had met with at home would clear up all M. de Choiseul's doubts, and blast all his expectations, since he could not fail being at present convinced, no menaces of a union of councils, nor any threats intimating little less than the reversionary declaration of war from Spain and France (perhaps not far off) could shake, much less intimidate or force, England to permit her Spanish disputes either to be blended with our present negociation with the court of Versailles, or to suffer France upon any occasion to meddle in our discussions with his Catholic majesty; and moreover, M. Bussy had been acquainted in the most explicit terms, that it would hereafter be considered as offensive to the King's dignity, if any further mention was made of such ideas: this I informed M. Wall was the energetic language that had been held to the French minister at London; and that my orders were, to remonstrate with his excellency on the unprecedented conduct of Spain in conveying, at such a conjuncture, through such a channel, and in such terms, her sentiments to Great Britain. But I was commanded, whilst I expressed his Majesty's surprise at so unheard-of a transaction, equally to make known the King's regret to find the court of Madrid had taken such a step; yet his eminent virtues would not permit even these considerations, or these motives, in any way to divert his unalterable resolution of adhering to the steady purpose and uniform conduct his royal wisdom had hitherto observed towards Spain.

I repeatedly enforced how strong my instructions were, to convince this court it was not to be expected or imagined, that the intimations of a hostile prince, or any insinuations of a combination of forces or union of interests between Spain and France, would in the least facilitate the satisfaction which was asked from hence in relation to our differences in America. But the same magnanimity that dictated to the King these sentiments, prescribed also to his Majesty's equity the following determination, which was the constant language I had invariably held by my sovereign's commands, of his royal intention, being ever and alike disposed to come to any reasonable terms of accommodation with Spain, finally to adjust our long subsisting differences.

With regard to the three points contained in the Memorial presented as the Spanish grievances, after dwelling upon the exact and unimpeached justice of the English courts of judicature, I observed, it was the fault of the parties who thought themselves aggrieved, if they did not seek redress in that due course which was ever open for them to pursue, since there were the regular courts established to enquire into all matters of that nature, and those who were not satisfied with the decrees issued from thence, had always recourse to the Lords of Appeals; but that it must be owned, it gave no favourable opinion of a cause about which the clients only clamoured, without seeking to have it de-

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cided in the proper forms of law: and it was superfluous to add, how many instances might be met with to ascertain this assertion; therefore the first article might be looked upon only in order to swell the appearance of grievances: and in all lights, the French ministers would never be authorized by us to take cognizance of what was solely to be decided by English tribunals.

As to the second article, containing the claim so often set up by the Biscayans and Guipuscoans, to fish at Newfoundland, and as often denied by England, I had, in the clearest terms I could make use of, shewed, that the first discovery of that island was made at the expences and by the command of Henry 7, and I had likewise demonstrated the uninterrupted possession of it, from that time to the present date, to have belonged to the English, from their being constantly settled there, whilst the Spaniards never had any establishments in those parts; therefore it was absolutely impossible for Great Britain to make the least concession in so clear a right, and it was hoped Spain would no longer expect, as the price of our union, a sacrifice which could never be granted by the court of London.

Lastly, concerning the disputes about the coast of Honduras, I could add nothing to the repeated declarations I had made in the King's name, of the satisfaction with which his Majesty would receive any just overture from Spain (upon condition that France was not to be the channel of that conveyance) for terminating amicably, and to mutual satisfaction, every reasonable complaint on this matter, by proposing some equitable regulation for securing to us the long enjoyed privilege of cutting logwood (an indulgence confirmed by treaty, and of course authorized in the most sacred manner) nor could I give stronger assurances than the past, of his Majesty's steady purpose to cause all establishments on the logwood coasts, contrary to the territorial jurisdiction of Spain, to be removed.

After having gone through these several points, gen. Wall, as he had done upon a former occasion, desired me to put into writing the principal heads of my discourse, promising me to make a proper use of them at the Despachos, for his incorrect memory rendered such notes absolutely necessary for him: I readily complied with his excellency's request, as I was certain by that method the Catholic king would be exactly informed of what I meant to have conveyed to his knowledge. The inclosed paper marked *A* is the copy of what I wrote down and gave to the Spanish minister.

I proceeded by saying, although a precipitated step could not be entirely recovered, yet it might be remedied; for, without any formal retractation, the expressing some concern for what had not been considered in all its consequences, might soften, and even wipe off, any impressions, however unfavourable, that might, nay, must have been made on the mind of his Majesty by this Memorial from the court of France.

As I thought I perceived a disposition in M. Wall, in some measure, to disavow the offensiveness of this step, I did not lose the opportunity of suggesting every pretext, and offering to his excellency all kinds of handles to explain away what had so unavoidably given disgust in England; and I endeavoured, in pursuance of what you so much recommended to me, to adapt myself to those circumstances which were of a nature to furnish this court with the best retreat imaginable.

I have here related, without interruption, what has been alledged by me, and have set down all the arguments I made use of; therefore I will now proceed to give an account of what was insisted on by gen. Wall, in support of his own reasonings, or advanced by his excellency in contradiction to mine.

The Spanish minister began by acquainting me, that M. Grimaldi had conveyed to him all that had passed, either in writing or discourse, between yourself, Sir, and M. de Bussy, as well as the language Mr. Stanley had held with the duke of Choiseul on the memorial relating to Spain. His excellency told me, the most Christian king having early intimated his desire here, that his Catholic majesty should guarantee the intended peace between the courts of London and Versailles; in order to render that peace more permanent, the king of Spain had thought proper to agree to that proposal's being made by France to England, as well as to consent to France's express offer of endeavouring to accommodate the disputes subsisting between England and Spain, at the same time she was trying to put an end to a war which had lasted so long between the British and French crowns: but he affirmed to me, that the intention of the court of Madrid in assenting to that proposal, was

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totally void of any design to retard the peace, and absolutely free from the least intention of giving offence to his Majesty, though it appeared that step had been productive of different effects; that, as to England's declaring, she never would add facilities towards accommodating her differences with another sovereign, in consideration of any intimation from a power at war, or the threatenings of an enemy, the Catholic king could not but applaud those sentiments in his Majesty, which he felt so strongly within himself; adding, it was certain the court of London was at liberty to reject any proposals coming from the French ministry, yet that could not in any way influence the king of Spain's communicating whatever measures he thought conducive to his interests, to the most Christian king, his Catholic majesty's friend, ally, and near relation.

M. Wall pursued his discourse, by acquainting me with France's having spontaneously offered to the Catholic king, (in case the disputes of Great Britain and Spain should, at any time hereafter, occasion a rupture between our two courts) to unite her forces with those of Spain, to prevent the English encroachments in America upon his Catholic majesty's territory: an offer which the Spanish monarch had received with that cordiality which was due to a friend, who was determined even to involve herself in a fresh war, in order to defend Spain.

General Wall then asked me, whether it was possible to be imagined in England, the Catholic king was seeking to provoke us; especially at a time that the court of London was in the most flourishing and most exalted situation it had ever known, occasioned by the greatest series of prosperities that any single nation had ever met with; and he assured me, the Catholic king, both before and at present, esteemed as well as valued the frequent professions I had made, by command from my court, of his Majesty's desire to adjust our mutual differences amicably; but he perceived, the terms on which those disputes were sought to be accommodated, occasioned the difficulty. The Catholic king, he said, did not think England would look upon the French ministers as a tribunal to which the court of London would make an appeal, nor meant it as such, when the first article of grievances was conveyed through that channel. As to the second, the claim of the Guipuscoans and Biscayans to fish for bacallao; it was what Spain had always insisted upon, and never had receded from by any treaty. And lastly, concerning England's evacuating all the usurped settlements on the logwood coasts, it had never been offered, but upon such conditions as were inconsistent with the dignity of the Spanish crown to accept of; since the court of London would only consent, that, previous to her sending orders to those unjust settlers to remove, and to cause the fortifications to be demolished, the Catholic king should be compelled to make known to the English, in what manner the logwood was to be assured to the King's subjects, notwithstanding the Spanish monarch had repeatedly given his royal word, a method should be found out for that purpose; and that, till it was adjusted in what manner Great Britain should enjoy that privilege, the English cutters of logwood should continue, without interruption or molestation of any kind, to carry on their commerce upon the footing they at present exercise it. His Catholic majesty only asking, that, for his own royal decorum, the usurped establishments should be relinquished by the English, to prove that good faith we piqued ourselves upon, and to convince Spain, we did not maintain those forcible possessions, as pledges, which sooner or later we imagined would compel the court of Madrid to grant us our own terms, and in the mean time to increase (which the British subjects did daily) the encroachments upon the coasts of Honduras.

This, Sir, to the best of my recollection, is what has been advanced or replied by general Wall at our different interviews. Yet, for greater accuracy, and a fuller explanation of the sentiments of his excellency, I desire leave to refer you to the enclosed Spanish paper marked B, with the translation distinguished by the letter C, which includes the substance of what the Secretary of State first spoke from, then read to me, and afterwards gave into my hands; consenting to let me send it to England, not as a memorial, but to be considered in the same light with that paper which I had agreed to give his excellency, containing some notes, to enable him to represent to his royal master, with candour, what I had been ordered to lay a stress upon; and this was delivered to me with the same view; a proof whereof was, that there was no date to either of our writings, no signature, nor any title prefixed.

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At my first conference, I told general Wall I had received the King's commands to desire his excellency would, in the present conjuncture, give me a proper explanation with regard to the naval armaments which had been carried on in the various ports of this country; and to ask for an explicit eclaircissement with relation to the destination of the Spanish fleet; as well as to inform myself particularly, from his excellency, what were the dispositions of the Catholic king to maintain friendship, and to cultivate a good correspondence with his Majesty; alledging, that this measure was judged by England to be the more absolutely necessary at present, as the French emissaries, and the partisans of our enemies, were attempting, by every method, to propagate the belief of an approaching rupture with Spain, in conjunction with France; therefore the King thought himself strongly called upon, from the indispensable motives of what his Majesty owes to his crown, and to his people, to expect to have a categorical answer to the questions I had put, by his royal command. The last time I saw M. Wall, which was the fifth meeting we had together, I renewed those questions, and then received exactly the same answer which had been given me the first time; that Spain was surprised Great Britain should take umbrage at any naval preparations, she was, or had been making since the accession of his present Catholic majesty; for including both the ships of the line, as well as the frigates, the whole number did not exceed in all that of 20; which M. Wall assured me were, by several, fewer than those which had been equipped during the reign of the late king Ferdinand. His excellency told me, that, with regard to their destination, some were frequently going backwards and forwards between this kingdom and Naples; others were intended to convoy the homeward, or outward-bound flotas, assogues, or register ships; and the remaining ones were to serve as a check upon the Barbary corsairs, and to defend their coasts, or smaller vessels, from insults; and in relation to the third question, his Catholic majesty's disposition and professions had invariably been the same, and were ever meant to cement and cultivate the friendship so happily subsisting between our two courts.

I hope, Sir, it will be found I have minutely obeyed every command I have been honoured with from his Majesty. I am but too conscious of the unreasonable, and, I apprehend, tiresome length of this dispatch, which, on account of my frequent interviews with the Spanish minister, and from my unfeigned zeal for the service of my gracious royal master, has insensibly led me on to be as particular as it was possible on so interesting a subject, and in so critical a conjuncture. I wish this narration had proved a more satisfactory one; yet, when the stile of general Wall's enclosed paper is compared with that which was given to me last January, I hope it will appear there is less peevishness at present here, than what was so strongly exhibited some months ago. The strong avowal of a most intimate cordiality between Spain and France, contained in this last production of the Spanish secretary of state's, has hurt me. I could not avoid acquainting his excellency, that it seemed calculated rather to serve as an apology for the proceedings of the court of Versailles, and to be a justification of the conduct of the French ministers, than for any other purpose. I am, &c.

BRISTOL.

Translation of a PAPER marked A, inclosed in the Earl of Bristol's Letter of August 31, 1761.

I. M. de Bussy having presented to Mr. Pitt a Memorial on the part of his court, concerning the discussions of Great Britain with Spain; the King my master ordered his Secretary of State to send back the said Memorial as totally inadmissible.

II. It has been told him, that France has not had, at any time, a right to meddle in our disputes with the court of Madrid.

III. Further, that it would be looked upon as offensive to the King's dignity, and incompatible with the good faith of the negociation, that further mention should be made of the differences of our courts.

IV. Orders to make remonstrances on the conduct of Spain, who, whilst she lived in good correspondence with England, and has always declared that her intention was, to put an end to our long disputes by some amicable arrangement, makes use of such a voice as that of an enemy to convey her grievances to us.

V. Although the King will never hearken to any thing on account of an intimation from a power at war, threatening an union of counsels, and hinting a future war, (perhaps not distant on the part of

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Spain and France), notwithstanding that, his Majesty, from an uniform conduct, and constantly inclined to give every satisfaction to his Catholic majesty, continues ready amicably to terminate every thing which can occasion the least coolness between the two kingdoms.

VI. With regard to the three articles recited in the Memorial as grievances of Spain, I am ordered to say, first, that the courts of justice, established in England, to decide causes relative to the restitution of prizes made on the Spaniards, or thought to be in violation of the Catholic king's territory, are always open to all those who bring their complaints thither; and that the ministers of the most Christian king are not acknowledged in England as a tribunal, before which England will consent that an appeal be brought.

VII. As to the second article; the first discovery of the island of Newfoundland, having been proved to have been made at the expence, and on the account, of king Henry 7, the uninterrupted possession of that island, by the settlements of the subjects of England ever since the said epoch to this hour, has also been demonstrated: further, Spain having never made any settlement there, and the pretended right of the Biscayners and Guipuscoans not being at any time admitted, the King can never consent to the least concession on this article; and flatters himself that Spain will never expect, as the price of an union so much to be wished for by the two nations, a sacrifice on the part of Great Britain, which can never be agreed to in any shape.

VIII. On the subject of logwood, which makes the third object, his Majesty is constant in his intentions to cause all the settlements, contrary to the territorial jurisdiction of the Catholic king in America, to be evacuated: And will receive with pleasure any just overture on the part of the court of Madrid, (provided that it does not pass through the channel of the French ministers) for accommodating our differences, and for putting an end to every complaint, by finding some means for granting logwood to us, without inconvenience to Spain.

Translation of a PAPER delivered to the Earl of Bristol by General Wall, at St. Ildefonso, August 28, 1761. Marked (C).

The Memorial which M. de Bussy presented to Mr. Pitt by order of his court, setting forth the desire the most Christian king had to terminate his peace with England, under the guaranty of the Catholic king, and that, at the same time, the disputes between the courts of Madrid and London might in some shape be accommodated, is a step, which his Catholic majesty will not deny has been taken with his full consent, approbation, and pleasure; however, he will affirm, and does affirm, to the court of Great Britain, and to the whole world, that his intention in consenting thereto, as well as in approving of it, was not to offend the dignity of that crown, or retard its peace: on the contrary, to consolidate it, and, in all human possibility, to perpetuate it. It may have been productive of contrary effects; for, as most actions bear different constructions, this has not received in London the same that was put upon it at Madrid and Paris: and both courts have been concerned at displeasing the King of Great Britain, and indisposing him from continuing the negociations of a peace with France, and of regulating his differences with Spain, jointly or separately, it is equal to both monarchs, since they have only good in view; though they will never give up to England a right, which, without example, it pretends to assume, of hindering the one from interfering in the affairs of the other, for their mutual assistance, as their union, friendship, and relationship, require.

Thus the end being explained, which the courts of Madrid and Paris proposed by the delivery of the memorial, the original motive will now be explained with the same sincerity.

There is the greatest harmony between the two courts: and who, in this age, can be surprised there should be that harmony between the kings of Spain and France? His most Christian majesty has communicated to his Catholic majesty, in consequence, all the steps taken to bring about a peace from the very beginning of the war. His Catholic majesty has acquainted his most Christian majesty, as often as there has been occasion, with his affairs at the court of London.

His most Christian majesty resolved to purchase peace at the dear price of the proposals contained in the plan delivered by the duke of Choiseul to Mr. Stanley; and one of the motives which induced him to so great a sacrifice was, in order to secure, for many years, the peace of his kingdoms, by satisfying at once the views

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of the English. And he signified, at the same time, to his Catholic majesty, his desire of cutting short those beginnings of disagreement between him and his British majesty, on account of his grievances with the court of London, with this kind expression, That if a rupture ensued between England and Spain, France will have miscarried in the above object of her present sacrifices, as she will be necessitated to assist in defending Spain, and involve herself in a new war. Was the Catholic king to despise so generous an overture? It was not to be expected. Ought England to be surprised at it? As little. It being grounded upon this, that if England saw that France attacked the dominions of Spain, particularly in America, she would run immediately to her defence, for her own conveniency, as well as because she had, equally with France, guarantied them. Well, what was to be done? said the two courts. They agreed, that France should declare to England, that, as she was coming to a composition with her, she desired that nothing might remain, not even a mistrust, of returning to a fresh war: and that she should exhort England to terminate her disputes with Spain to their mutual satisfaction, which alone occasioned any doubt.

Both courts thought that France could not take a step that shewed better faith towards England, and there is no doubt but so it appears; without examining why or wherefore it is thought otherwise at London, or in what it offends the dignity of the British monarch. What proceeding more noble can an enemy hold with another, than France does to England, in saying, to conclude a peace with England, I yield up this and that; however, at the same time I am resolved to make this sacrifice, I cannot but say, I wish to secure a peace for many years, and therefore should be glad that England would settle with Spain their subjects of disagreement together, because otherwise they may again entangle me in a fresh war.

Yet England finds reason for remonstrating against the conduct of Spain hereupon; expressing, that, at a time she is living in good harmony with Spain, and has declared her desire of terminating her long differences by some amicable adjustment, Spain makes use of England's enemy as the channel of her grievances. It is repeated in answer, that Spain only consented that France should take this step, inasmuch as it appeared not only inoffensive, but, on the contrary, to come more from an honest and sincere friend than an enemy: and that Spain is far from thinking to irritate England. She would not have stayed to chuse her time so ill, if views of prudence and moderation had not contained her, and above all, the never lost hopes of finding justice in the British court.

How many proofs has not Spain already given, of her aiming to obtain a redress of her grievances, without pretending it otherwise than in a friendly manner? Six years ago, the Spanish governors being ordered to oppose the intrusion of foreigners upon the American coasts, an expedition was made to dislodge the English from some new establishments; and the court of London having exclaimed against an offensive method, which happened exactly at the time she was coming to a rupture with France, from whence it might have been inferred that Spain, in seizing that conjuncture, sought to straiten England, (then less powerful, and, not so sure of her happy successes as at present,) the Catholic king commanded, in order to take away all kind of mistrust from England, that those orders should be superseded; and even to restore to the English whatever effects might have been taken from them; and his British majesty offered to settle these points in a friendly manner. During these same six years, we have not discontinued to solicit, without advancing one day more than the other; and during that time (who would believe it?) the English have increased their incroached establishments upon that coast.

The king of Spain will say, as the king of England does, that he will do nothing on account of the intimation of a hostile power, who threatens an union of councils, and gives to understand a future war; for the Catholic king approves of, and esteems, in other monarchs, those sentiments of honour he feels himself; and if he had thought that the delivery of the memorial had been construed as an intimation, and a threat, he would never have consented to it. Why has not England made the trial of concluding her peace with France without the guaranty or intervention of Spain, and adjust her differences with Spain without the knowledge of France? and she would have experienced, that their union was not an obstruction, but only tended and tends to live in tranquillity, and shake off all danger with regard to its permanency. With respect to what concerns Spain, it is now

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repeated, as it has been so many times before, that as the king of Great Britain, notwithstanding the delivery of the said memorial, was inclined to satisfy the Catholic king, and was ready to terminate, in a friendly manner, whatever might occasion a coolness between the two kingdoms; his Catholic majesty esteems and corresponds most assuredly with such good purposes. The difficulty consists in the terms. Three articles of grievances were stated, in the memorial, by the court of Madrid against that of London; which has been answered, but not with more compliance than any of the former offices, full of conviction, from the Spanish embassador in England have been answered.

With regard to the claim of the injuries against the neutrality in this war, which is one, and about which there is no material stumbling-block; after other things, it is said, that England can never look upon the ministers of the most Christian king as a tribunal to which it will consent to carry an appeal; and it cannot be imagined to what purpose. Who ever thought of such an irregularity? Concerning the liberty of the Biscayners and Guipuscoans to fish for bacallao, an absolute negative is given to that right, though it is so well proved: and with respect to evacuating the establishments, it is only offered upon terms inadmissible with the Catholic king's decorum, that before doing it, he should assure to the English the logwood. Hard proceeding certainly, for one to confess, that he is gone into the house of another to take away his jewels, and to say, "I will go out again, but first you shall engage to give me what I went to take." And still harder, when set in opposition with the bacallao; for the Spaniards want that for their food, as the English want the logwood for their fabrics: yet the English would by force take away the logwood, and hinder by force the Spaniards from taking away the bacallao. One would think that the English themselves ought with reluctance to produce such a pretension.

LETTER from the Earl of Bristol to Mr. Secretary Pitt, dated Segovia, Sept. 14, 1761. Received Oct. 5.

Sir; General Wall has acquainted me that Mr. Manso, governor at Saroque, had, in consequence of the orders transmitted to him, been at Tariffa, where (after examining into the conduct of the inhabitants at that place, and reproving those who connived at the proceedings which occasioned such repeated complaints from me concerning the illegal protection granted to the French row boats under the cannon of that port) he had taken such measures as would put an effectual stop to any farther remonstrances on that subject.

The Spanish minister likewise informed me of his having heard, that several additional works were going forward in order to strengthen the fortifications at Gibraltar; which he said would naturally confirm the report, too universally spread, of an approaching rupture between our courts. His excellency asked me, whether Great Britain could seriously entertain any apprehensions of such an event? and, without giving me time to answer, added, that the Catholic king had at no time been more intent on cultivating a good correspondence with his Majesty, than at present.

After so explicit a declaration of the sentiments of Spain on this very material point, I thought it incumbent on me to remove, as far as it lay in my power, all the jealousies and suspicions which I found had arisen from any workmen being employed at Gibraltar. I therefore assured M. Wall of my having no kind of reason to imagine any orders had been issued from England to increase the works of that fortress; for I had constantly been told that place was impregnable by land, of course money would not be squandered away there unnecessarily; yet, as some of the ancient forts might want repairing, and as each new governor would naturally exhibit his attention and diligence in the care of so important a trust, general Parslow might probably be employing some hands for that purpose, which was a sufficient ground for the intelligence his excellency had received, as all reports from distant provinces were very much magnified before they reached the capital. I am, &c. BRISTOL.

LETTER from the Earl of Bristol to Mr. Secretary Pitt, dated Segovia, Sept. 21, 1761. Received Oct. 16.

Sir; A messenger arrived at St. Ildephonso last week, with the news of the safe arrival of the flota in the bay of Cadiz, but the particulars of the cargo on board are not yet exactly known.

I have been assured that this court is disappointed, since there is little above 330,000*l.* brought from America upon the Catholic king's account; which sum, con-

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sidering it is the produce of the royal revenue for two years, in the West Indies, is not considerable, and shews the great mismanagement that reigns amongst the assessors and collectors in those parts. The viceroys and governors endeavour to exculpate themselves, by sending heavy complaints against their inferior officers; and these retort the accusations, by alledging, that those who are set over them to prevent all illegal practices, are the first and principal people who defraud the king of Spain of his due, by encouraging the contraband trade upon the coasts, and conniving at the introduction of all kinds of goods, for which they, the chiefs, receive large presents; by these means the markets and fairs are glutted with every kind of commodity from Europe when the flota arrives from Old Spain; so that, from the magazines being then full, no vent can be found for the new merchandize but upon very disadvantageous terms, which the factors are compelled to submit to, rather than to return hither with the same goods they carried out. [As his Catholic majesty seems to have the prosperity of his extensive dominions so much at heart, and is conscious how highly requsite it is, for the welfare of his subjects in the different parts of the world, to put his affairs upon an entire new regulation; his ministers do not fail suggesting often to him the impracticability of setting about to alter the old defective system of government that has so long prevailed, if the court of Madrid should embroil itself in the present troubles of Europe, by taking a part in the war against Great Britain.] I am, &c.

BRISTOL.

LETTER from the Earl of Bristol to Mr. Secretary Pitt, dated Segovia, Sept. 28, 1761. Received Oct. 20.

Sir; Don Jayme Masones, late embassador from this court to that of Versailles, having obtained leave to resign his employment of director-general of the artillery, has been appointed by the Catholic king one of the counsellors of state.

M. Wall has acquainted me, that, by the freshest intelligence he has been able to procure from America, he has been told, the English settlers upon the logwood coast had chiefly been fortifying themselves at Rio Tinto, where they had cast up considerable intrenchments, and had placed several pieces of cannon upon the ramparts. His excellency added, as that establishment, together with those near the river Wallis and the Laguna Azul, were indisputably of a very recent date, he did not conceive what difficulty Great Britain could alledge for avoiding to evacuate such avowed usurpations, if the court of London was really sincere in the professions which had been so repeatedly made to Spain, of its intention to cause all settlements, contrary to the territorial jurisdiction of his Catholic majesty, to be abandoned. General Wall has earnestly desired my giving the strongest assurances at home, that, if orders were sent for recalling those British subjects, who are now at Rio Tinto, and directing them to withdraw their cannon from that place, the king of Spain promised, in the amplest manner, that no kind of disturbance should be given to any of the logwood cutters in whatsoever parts they were, either on the coasts of Campeachy or of Honduras; but that they should be permitted to carry on their trade unmolested, until an agreement could be made, and a convention settled, between their Britannic and Catholic majesties, for the final adjustment of this long depending business, to the mutual satisfaction of our two sovereigns. General Wall has ever acted in too ingenuous a manner for me to suspect the least duplicity in his conduct; and the pressing instances he made me, on this occasion, to endeavour to represent the equity as well as the expediency of such orders being transmitted with regard to Rio Tinto, leave me no room to doubt, that this court only wishes for such a step, either to treat upon that apparent equality of its differences with England, or to put a stop to the repeated intimations conveyed from Versailles, that it would be unbecoming the dignity of the king of Spain to enter into any negociation with another power, who avowedly with-held from his Catholic majesty several illegal settlements in his territories; although the French ministers, in order to render an accommodation between England and Spain utterly impracticable, recommend to this court the necessity of insisting, that every Englishman whatever should withdraw from each part of the logwood coasts, before any overtures are made for the regulation of our commerce with Spain; yet M. Wall said, that the Catholic king could not give a stronger proof of his desire sincerely to put an end to our disputes, by some amicable regulation, than exacting only the relinquishing that establishment on Rio Tinto, which,

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while it silenced the clamours of our enemies, would also facilitate this court's coming to a speedy adjustment with England; for all that was requested from us was, to make known to the world our own good faith, at the same time that it would serve as a salvo to the Spaniards *pundonor* for entering into a negociation, after having so often insisted on the evacuation of the Catholic king's dominions in the West Indies. I am, &c. BRISTOL.

LETTER from the Earl of Bristol to Mr. Secretary Pitt, dated Segovia, October 5, 1761. Received October the 27th.

Sir; I received, by the last post, the honour of your dispatch of the 11th past, acquainting me, that his Majesty's marriage with the princess Charlotte of Mecklenburg Strelitz was happily celebrated the 8th of last month; on which joyful event I offer you my sincere congratulations, as I can judge of the great satisfaction all the King's faithful subjects must feel, by what I now experience within myself.

As you transmitted to me the King's letters of notification, on this occasion, to his Catholic majesty, and to the queen dowager of Spain, I went yesterday, to St. Ildephonso, and presented his Majesty's letter, in the accustomed manner, to the Catholic king, who enjoined me very particularly to assure his Majesty of the sincere share he should ever take in all events that contributed to the King's happiness. To-morrow I intend returning to the palace, in order to deliver to the queen dowager the letter addressed to her Majesty, as I have already acquainted the Camarera-mayor with my having been honoured with the King's commands for that purpose. M. Wall has informed me, that the hopes of peace now seem more remote than ever, as M. Stanley and M. Bussy were shortly to return to their respective courts. His excellency expressed a thorough concern at the breaking off these conferences, and said, it was the opinion in Spain the French ministers had gone as great lengths in concessions as could be expected, considering the engagements of France with her allies. That if Great Britain was so laudably strenuous for the support of the king of Prussia, it was equally reasonable to imagine the court of France would never consent to desert the empress queen; and the being allowed only to succour her imperial majesty with 24,000 men, while England reserved to itself the power of assisting his Prussian majesty efficaciously, was almost equivalent to abandoning the House of Austria. I am, &c. BRISTOL.

Most secret LETTER from the Earl of Egremont, to the Earl of Bristol, dated October 28, 1761.

My lord; in opening my correspondence with your excellency, it gives me great pleasure to be able to inform you, that your letter of the fourteenth past, wherein you mention, "That M. Wall has acquainted you that the Catholic king had, at no time, been more intent on cultivating a good correspondence with his Majesty than at present," having been laid before the King, his Majesty received, with particular satisfaction, such an authentic declaration of the good intentions of his Catholic majesty; and the King highly approves of the assurances your excellency gave, in return, to the Spanish minister, with regard to additional works at Gibraltar; and it is with great pleasure I can assure your excellency, that having made proper enquiry into that matter, I find no orders whatsoever have been issued with regard to those fortifications; and therefore nothing can have been done there, but the usual and necessary repairs.

I am also to inform your excellency, that the confirmation of the same good dispositions in the court of Spain, manifested by M. Wall's expressing (as reported in your dispatch of the 28th past) their readiness to come to a speedy adjustment with England, upon our evacuating the most recent settlements on the coast of Honduras, only to serve as a salvo to the Spaniards *pundonor*, was considered by his Majesty as a happy presage of a speedy and amicable conclusion of all disputes subsisting between the two crowns.

It is judged highly expedient for the King's service, that the court of Spain should, in the present moment, be apprized of the sentiments of that of Great Britain. I am therefore to acquaint your excellency, that his Majesty continues to have nothing more at heart, than to cultivate the most cordial friendship with his Catholic majesty; trusting, however, to find this disposition reciprocal on the part of Spain. Nothing being more evident, than the mutual advantage which must arise to both courts from a state of union and amity; and perhaps experience

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has shewn, that when in contradiction to the obvious principles of our common interests, that harmony has been unhappily interrupted, Spain has always been the greatest sufferer.

These being the King's sentiments, his Majesty cannot imagine that the court of Spain should think it unreasonable to desire a communication of the treaty acknowledged to have been lately concluded between the courts of Madrid and Versailles, or of such articles thereof as can, by particular and explicit engagements, immediately relate to the interests of Great Britain, or, in a more general and distant view of affairs, be any ways construed to affect the same in the present conjuncture, before he enters into farther negociation on the points depending between the two crowns; which the King conceives may be soon amicably accommodated, if his Catholic majesty means to bring the same facility on his part, as his Majesty is determined to shew on his, towards the speedy adjustment of that, which seems now to remain the principal, if not only, matter in dispute: for though the King, from his confidence in the repeated assurances of friendship from his Catholic majesty, is unwilling to suppose that a treaty, concluded by him, can contain any thing to the prejudice of Great Britain; yet as the court of France has affected to give out that Spain was on the point of entering into the war, which language has been industriously propagated, and generally with success, in most courts of Europe; his Majesty therefore thinks, that the honour of his crown, and the interests of his people equally call for an explanation with regard to this already too-much credited report, before he can, consistent with his own dignity, proceed in any negociation with Spain: nor can any fair or candid discussion of the rights or differences of the two courts take place upon a just and equitable footing, should Spain, while she is fully informed of the extent of all his Majesty's alliances and connections, maintain a suspicious and unfriendly reserve, with regard to a treaty recently concluded between her and his Majesty's declared and inveterate enemy; by whom it is openly and industriously asserted, throughout Europe, that the purport thereof is hostile to Great Britain.

I am here to inform your excellency, that, in my first conference with the count de Fuentes, I explained this matter fully, but his excellency avoided entering into it, and seemed to wish that it might be passed through another channel; disclaiming, however, in the strongest manner, any unfriendly intentions of his court. It is therefore the King's pleasure, that your excellency should use the most pressing instances to M. Wall, to obtain such communication as is above mentioned: and it is hoped, that you will easily convince a minister so thoroughly acquainted with the nature and constitution of this country, of the importance of this test of friendship, to the support of that desirable harmony between the two courts; and how much a refusal to give due satisfaction on this head, would impede and obstruct his Majesty's best intentions towards that valuable object. It is needless to recommend to your excellency, to urge this matter in the most polite and friendly terms; gently insinuating the above arguments, to shew that his Majesty ought to be satisfied as to this matter, before he proceeds to other points: but, on the other hand, your excellency will give the Spanish minister the strongest assurances, that, this obstacle once removed, his Majesty is most sincerely and cordially disposed to enter into an amicable discussion of other matters in dispute; little doubting, but that a confirmed reciprocal confidence would naturally point out expedients to save the honour of both kings, adjust things to mutual satisfaction, and establish a harmony, as permanent as advantageous to both courts. Nor can I more explicitly enforce the King's real sentiments on this head, than by referring your excellency to your own dispatches, wherein you have repeatedly made the most conciliating overtures, particularly in that of the 31st of August last, which I cannot more properly express, than in your excellency's own words, as follows, "Concerning the disputes about the coast of Honduras, I could add nothing to the repeated declarations I had made in the King's name, of the satisfaction with which his Majesty would receive any just overture from Spain (upon condition that France was not to be the channel of that conveyance) for terminating amicably, and to mutual satisfaction, every reasonable complaint on this matter, by proposing some equitable regulation for securing to us the long-enjoyed privilege of cutting logwood (an indulgence confirmed by treaty, and of course authorized in the most sacred manner) nor could I give stronger assurances than the past, of his

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Majesty's steady purpose to cause all establishments on the logwood coasts, contrary to the territorial jurisdiction of Spain, to be removed;" and should your excellency see the proper moment for renewing declarations of the same sort, I am to assure your excellency of his Majesty's approbation therein.

In order to prevent any perverse impressions which Mr. Pitt's retiring from public business at this juncture might occasion, it is proper that I should assure your excellency, that the measures of government will suffer no relaxation on that account; on the contrary, I may venture to promise, that the idea suggested by some malevolent persons at home, and, perhaps, industriously propagated abroad, of the whole spirit of the war subsiding with him, instead of discouraging, will only tend to animate the present ministry to a more vigorous exertion of their powers, to avoid every possible imputation of indecision or indolence which ignorant prejudice might suggest: and the example of the spirit of the late measures will be a spur to his Majesty's servants to persevere, and to stretch every nerve of this country, towards forcing the enemy to come into a safe, honourable, and, above all a lasting peace.

I farther have the pleasure to inform your excellency, that the most perfect harmony, mutual confidence and unanimity, now reign in his Majesty's councils; with a thorough determination to push the war with such vigour as will, it is hoped, under the hand of Providence, procure still farther successes to the just cause for which this country drew the sword. The King at the same time continues to be disposed, with equal moderation, to put an end to the dreadful calamities of war, the moment the enemy will listen to such terms of peace as shall be consistent with his Majesty's honour, in some degree adequate to the successes of his arms, and calculated, by promising permanency, to preserve mankind from the various distresses and miseries which have been so fatally experienced during the course of this cruel and bloody war. I am, &c. EGREMONT.

LETTER from the Earl of Egremont to the Earl of Bristol, dated October 28, 1761. Secret and Confidential.

My lord; I am to acquaint your excellency, that his Majesty does not think proper to confine you, as to the mode of opening yourself to M. Wall, on the important subject of this dispatch; or to prescribe whether you are to communicate the substance of it verbally, or to trust the whole, or any part thereof, out of your hands: your excellency's experience of that minister will, no doubt, suggest to you the degree of compliment and confidence which is most likely to succeed, and which is, for that reason, entirely left to your discretion.

I am farther to inform your excellency, for your private direction, that in case you should find insuperable objections to such a communication as is expected in my most secret letter of this date, and that, in lieu thereof, it should be proposed to give his Majesty solemn assurances of the innocence of the treaty in question with respect to the King's interests; in such case, your excellency is not totally to reject the alternative, but to take it *ad referendum* to be transmitted to your court: provided always, that the said assurances be given upon his Catholic majesty's royal word, signified in writing, either by the Spanish secretary of state to your excellency, or by the conde de Fuentes to the King's secretary of state here, and not otherwise. I am, &c. EGREMONT.

LETTER from the Earl of Egremont to the Earl of Bristol, dated October 28, 1761. Separate and Secret.

My lord; I reserve for this separate and secret letter the King's commands, that your excellency should pay the most particular attention to what is passing, at this critical conjuncture, at the court where you reside; it being highly important to his Majesty's service, that you should not only use your utmost endeavours to penetrate, as far as you can, into his Catholic majesty's real views, as well as into the prevailing temper and sentiments of his principal ministers, but that you should observe, with a watchful eye, every new order or regulation relative to their sea and land forces, or to their credit and finances, as far as the same shall appear to your excellency to indicate the least disposition in the court of Spain to depart, in any shape, from their neutrality, either by openly or secretly assisting his Majesty's enemies.

The King's thorough reliance on your experienced zeal for his service, makes it unnecessary to recommend vigilance on this occasion. I am therefore only to add, that your excellency, in the diligent prosecution of this object, will most cautious-

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ly avoid the least mark of offensive diffidence, which might, in any degree, tend to interrupt those friendly dispositions, which his Majesty sincerely wishes to cultivate and improve. I am, &c.

EGREMONT.

LETTER from the Earl of Bristol, to Mr. Secretary Pitt, dated Escurial, Oct. 12, 1761. Received Nov. the 8th.

Sir; I delivered the King's letter, notifying his Majesty's marriage, to the queen mother at St. Ildephonso; who desired me not to fail acquainting the King, how much her majesty interested herself in every event, where the King's happiness was concerned. The court left Old Castile on the 7th instant, and arrived the same day here.

General Parslow having sent me an answer to a letter I wrote to him, inquiring whether there were any grounds for those reports M. Wall had mentioned to me, concerning some additional works carrying on at Gibraltar, and having acquainted me with what was going forward, which consisted only in some necessary repairs and conveniencies for the garrison, I read the whole letter to general Wall; desiring him to acquaint his Catholic majesty with that very authentic contradiction of what had been maliciously conveyed to this court: assuring his excellency at the same time, that Spain need have no suspicion of England's not trusting to the repeated declarations, he (M. Wall) had made to me, of the pacific disposition of the king his master; for I had constantly and explicitly given an account of those professions in my dispatches, which corresponded with the sentiments and inclinations of Great Britain, to maintain a perfect harmony and thorough union between the two kingdoms, in Europe as well as in America. I am, &c.

BRISTOL.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Escurial, Nov. 2, 1761. Received Nov. 14.

My lord; The surprising change I have of late perceived in general Wall's discourse, and the unlooked-for alteration of that minister's sentiments, with regard to the present situation of this country, has determined me to dispatch the messenger Potter to England, that your lordship may be thoroughly informed of the haughty language now held by this court; so different from all the former professions made to me by the Catholic king's commands, and so diametrically opposite to the most solemn and repeated declarations I had received from the Spanish secretary of state, of a thorough resolution to maintain a perfect harmony and good correspondence between the two kingdoms, so requisite for their mutual interest and reciprocal felicity.

Such strong reports of an approaching rupture between Great Britain and Spain, grounded upon several authentic assurances I had received, that some agreement had been settled and signed between their Catholic and most Christian majesties, determined me to inquire minutely into this affair: and therefore I took an opportunity of mentioning to M. Wall, that notwithstanding the frequent, and even late declarations he had made to me, concerning the pacific inclinations of Spain, yet I could not conceal the uneasiness it gave me, to hear from all parts, both within these kingdoms, and from other countries, that a treaty had not long since been concluded between the courts of Madrid and Versailles, and therefore I desired his excellency would satisfy my doubts, by informing me, whether there was any ground for these rumours; and, in case it were possible, after all that had passed between us, for such a convention as was hinted at, to have been concluded: then I hoped to be told of what nature this treaty was, whether offensive or singly defensive, what were the principal conditions contained in it, and with what views this sudden and close union between Spain and France had been calculated: for I could neither hear such reports with indifference, nor give credit to the truth of them, without an explicit avowal thereof from his excellency's mouth.

Instead of answering me directly, general Wall began, by saying, that the king his master had reason to think the conduct of England unwarrantable; for his Catholic majesty never could obtain an answer from the British ministry, to any memorial or paper that was sent from hence, either by the channel of the count of Fuentes, or through my hands: he told me, we were intoxicated with all our successes, and a continued series of victories had elated us so far, as to induce us to contemn the reasonable concessions France had consented to make to us for a peace: but that it was evident, by our refusal of the duc de Choiseul's proposals, all we

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aimed at was, first, to ruin the French power, in order more easily to crush Spain, to drive all the subjects of the Christian king, not only from their island colonies in the new world, but also to destroy their several forts and settlements upon the continent of North America, to have an easier task in seizing on all the Spanish dominions in those parts, thereby to satisfy the utmost of our ambition, and to gratify our unbounded thirst of conquest.

After M. Wall had worked up his anger to a height I had never before seen, he then said, with uncommon warmth, that he would himself be the man to advise the king of Spain, since his dominions were to be overwhelmed, at least to have them seized with arms in his subjects' hands, and not to continue the passive victim he had hitherto appeared to be in the eyes of the world. I attended to this discourse, without interrupting the thread of it; and, at the conclusion of it, I desired, with the utmost serenity, of general Wall, to give me an answer to the questions I had first started, and we would afterwards proceed to discuss what his excellency had been expatiating upon. But the Spanish minister only renewed some of his former exclamations, by insisting, that we had set the Spanish power at defiance during this war; that we had attacked and plundered their vessels, insulted their coasts, violated the neutrality of these kingdoms, encroached upon the territorial jurisdiction of his Catholic majesty's dominions in America, by fortifying ourselves in an illegal manner in the bay of Campeachy and the gulf of Honduras, erecting fresh settlements, and seizing on logwood in a most arbitrary manner, besides denying the Spaniards a right, they had so long claimed, to fish upon the banks of Newfoundland; nay, even wanting to put the Biscayners and Guipuscoans on a worse footing at present, with regard to their pretensions to the bacallao trade, than they had been by the treaties of Utrecht and that of 1721, where the article in relation to them was, that those Spaniards should enjoy 'quæ 'jure sibi vindicare poterunt:' whereas all my instructions had run to declare their claim to be stale and inadmissible, and finally to assert that England hoped the Catholic king would never expect this sacrifice as the price of a union, which could never be consented to on those terms.

General Wall went on, by saying, he perceived he had in vain given hopes to his royal master, that a proper attention would be paid to the Spanish demands, and justice be granted to atone for the repeated grievances of his Catholic majesty's subjects; yet he wanted to know where, when and how, it was to be expected, since we shewed no regard to this country, which had hitherto withstood all the advantageous offers made by France to enter into the present war.

Notwithstanding this second digression of his excellency's, I did not desist from my point, but renewed my former questions, by alledging, that the business I came about was to receive some explicit answer to what I had before enquired after. At last, general Wall replied, he had no orders to acquaint me with any measures but what he had formerly communicated to me, and signified his not being at liberty to say any more; but said, M. de Fuentes had wrote word, in his letter of the 2d past, that a courier was to be sent to me, and whenever the contents of those dispatches were communicated to him (M. Wall) then I should be acquainted with the resolutions of Spain; for his Catholic majesty did not doubt of my receiving instructions relative to the Spanish paper I had transmitted in my letter of the 31st of August.

It was evident, by the disposition the secretary of state was in during this whole conference, that I should at that time gain no ground by any farther inquiries into what I wanted to be instructed in. I therefore broke off here: and after having paid my court as usual, with the rest of the embassadors, to his Catholic majesty, I returned in about an hour to the office, under pretence of shewing an attention I always pay to general Wall, when I intend sending off a messenger, which was, to desire his excellency would honour me with any commands he might have for England, either of a public or a private nature. As our conversation in general had been too interesting (whilst a part of it was so mysterious) for me not to send home an exact account of all that had passed, by a safe conveyance; I let this drop, in order to renew the former topic, and, by so doing, endeavour to procure a little more insight into this obscure business.

The Spanish minister began in his former strain, but multiplied the appearance of this country's grievances; talked of its being time to open their eyes and not to suffer a neighbour, an ally, a parent, and a friend, any longer to run the risque of receiving such rigid laws as

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were prescribed by an insulting victor: his excellency told me, the court of Versailles, after having communicated to the Catholic king, every the most minute step taken during Mr. Stanley's negociations at Paris, and M. de Bussy's conferences at London, had determined to publish to the whole world, the mortifying terms France had brought itself to submit to for the sake of peace; and to make known the arbitrary, unreasonable demands of England, which frustrated the good intentions of the most Christian king, whose humanity had made him consent to put an end to the war, even at the dear price of yielding so much as he had brought himself to agree to, in order, if possible, to satisfy the ambition of Great Britain.

I thought I had sufficiently listened to all these accusations, and that a longer silence would be reproachful. I must confess, the allegations mentioned by M. Wall in the first conference, were so unexpected to me, on account of their differing so widely from all prior conversations on those subjects, that I thought it more prudent then, only to attend to what his excellency asserted, and afterwards, by a short absence from his closet, endeavour to recollect the substance of what had been advanced, that I might be the better enabled to answer, though, I feared, not to convince, the Spanish minister.

I began by expressing my surprise, that, when I came to be informed of a step so publicly discoursed of in the world, I could not obtain the satisfaction I solicited from one, who alone could clear doubts, and solve my questions; that all I had been able to find out, was, that it seemed determined to keep me in the dark; and, in order to divert my intention from the single point I wanted to be instructed in, I had only heard a complicated heap of grievances, flung out with a view to deter me from persevering in the pursuit of getting my curiosity satisfied. Upon that I went methodically through the various subjects that had been started by the Spanish secretary of state, insisting on the first discovery, and a continued possession of the Newfoundland fishery, by the king's subjects; whereas the Spaniards had never brought any proofs to back their own assertions to a claim to that fishery, whilst we had clearly deduced our right from the time of Henry 7.

With regard to the logwood trade; a constant enjoyment of it for about a century, confirmed to us by treaties, under the denominations of an indulgence or sufferance, made it a legal commodity: but as to all usurped settlements, I had often been ordered to declare the King's readiness to have them evacuated, when an equitable regulation was settled between the two courts for our quiet possession of that valuable branch of commerce.

Then, as to the several complaints of breaches of neutrality, pretended confiscations of goods, unlawful seizures of Spanish vessels, and all the various blended grievances I had heard of, I could only answer, in general, that our courts of law were open to all complainants; and though parties might go from thence dissatisfied, yet the justice of those courts of judicature had never been impeached.

In relation to England's views, of forcing our enemies to agree to such terms as we thought might insure our nation from the apprehensions of a future war, I desired to know what instance there was of any country's not endeavouring to obtain the most advantageous conditions for itself at a peace, especially when Providence had vouchsafed to bless a righteous cause with success: this was the case of Great Britain; we were bound by strong engagements to support our allies, and insisted on being at liberty to fulfil those engagements according to the extent of them; whilst we determined to settle our empire in America upon such a footing, as should free our colonies there from encroachments, and not leave them to be liable to a repetition of such chicanes from the French, as had caused the beginning of those disturbances, which had afterwards extended themselves into Europe.

This was the sum of my discourse; and when I recurred to my repeated instances for information concerning the treaty, all that I could, with difficulty, extort from general Wall was, that his Catholic majesty had judged it expedient to renew his family compacts (those were the express words) with the most Christian king. I begged to know when those compacts had first been agreed upon; and at what time, whether very lately, or some months ago, they had received a fresh sanction. Here the Spanish minister stopt short, and, as if he had gone beyond what he intended, he said, that the count de Fuentes and M. Bussy had declared to his Majesty's ministers all that was meant to be communicated to them; and although I continued in the closet some short time after that declaration, as I found I was to ex-

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pect nothing but a repetition of the same answer to every question I put, I determined to retire.

This, my lord, is the result of my enquiries, and here the business rests at present.

Two ships have lately arrived at Cadiz, with very extraordinary rich cargoes, from the West Indies; so that all the wealth that was expected from Spanish America, is now safe in Old Spain: perhaps this circumstance has raised the language of the Catholic king's ministers, added to the progress which, we hear, the French army is making in the King's electoral dominions, and the success that has attended the Austrian operations in Silesia. I have long observed the jealousy of Spain at the British conquests; and am now convinced that the consciousness of this country's naval inferiority, has occasioned the soothing declarations, so repeatedly made, of a desire to maintain harmony and friendship with England; but the French have never discontinued their flatteries, whilst they solicited a junction of forces, assuring the Spaniards, that even the signing of an alliance between their sovereigns, would intimidate our court, not only upon account of our being exhausted by the present long and expensive war, but by our having felt the fatal consequences of an interruption of our Spanish trade, during the last war. I am, &c. BRISTOL.

LETTER from the Earl of Egremont to the Earl of Bristol, dated November 19th, 1761.

My lord; on the 14th instant, I received the honour of your excellency's most important and interesting dispatch of the 2d, by Potter, and laid the same immediately before the King. The surprise which your excellency expresses at the unlooked for sudden change of sentiments and discourse of M. Wall, could not have exceeded his Majesty's astonishment at the contrast, as striking as unaccountable, which your excellency's dispatches of the 14th and 28th of September, compared with that of the 2nd instant, exhibited; and when his Majesty observes the very different and contradictory tenor of the above mentioned several letters, the abrupt and unprovoked transition in the Spanish secretary of state, from the most cordial and conciliatory tone of friendly profession and amicable adjustment, to the most peremptory and haughty stile of menace and hostility, cannot but put his Majesty's moderation to the severest trial. It must also add to your excellency's as it has to my animadversion, on the incoherency of this behaviour, when I inform you, that the several conversations I have had with the count de Fuentes, have been all of the most amicable kind; and the very day before your excellency's messenger arrived, the Spanish ambassador, coming out of his Majesty's closet, from an audience, to which he had been admitted to deliver a letter from his Catholic majesty on occasion of the King's marriage, took me aside, to repeat to me the strong assurances he had just had the honour of giving his Majesty, of the friendly disposition of the king his master, and of his steady purpose to maintain the strictest amity with the court of Great Britain.

The King, however, religiously true to his solemn and sincere declarations to his Catholic majesty, and, at the same time, not less attentive to the dignity of his crown, and the real interests of his people, is calmly and resolutely determined punctually to discharge those indispensable duties with a coolness which no provocation can disturb, and a firmness which no menace can intimidate.

In this fixed disposition of mind, his Majesty directs me to lose no time in redispatching your excellency's messenger, with his Majesty's sentiments on a point which so highly concerns the honour and interest of both crowns.

Though my dispatch of the 28th past, will have already given your excellency the satisfaction of seeing, how entirely consistent with his Majesty's ideas, the steps you have taken have been; yet, I must, in obedience to the King's commands, assure you, that your conduct on this occasion has met with his most gracious approbation.

It would be both tedious and useless to enter minutely into the answers so obvious to be given to the offensive digressions, by which M. Wall determinately evaded giving any satisfaction to your excellency's most reasonable demand, with regard to the treaty lately concluded with France. I shall therefore content myself with very few observations in the order of your dispatch.

As to the assertion of that minister, "That his Catholic majesty never could obtain an answer from the British ministry, to any memorial or paper that was sent from Spain, either by the channel of the count de Fuentes, or through your

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hands;" it would be a useless condescension to appeal so repeatedly to those ample materials in your excellency's possession, for the confutation of a proposition so notoriously groundless, that it scarce deserves a serious answer.

The language M. Wall held, relative to the late negociation with France, as well as with regard to our ambition and unbounded thirst of conquest, as it consists of mere abusive assertion, without the least shew of argument, deserves nothing but plain contradiction.

His Majesty read, with particular concern, the intemperate and rash advice which that minister talked of proposing to the king, his master, grounded upon mere chimerical suppositions of intended hostilities against Spain, which do the highest injustice to the purity and integrity of his Majesty's intentions: and M. Wall must himself know, that there has been a particular delicacy observed in concerting our plans for military operations, to avoid carrying hostilities towards objects, which might give the least jealousy or umbrage to the court of Spain; and therefore his Majesty can only consider such unjust suggestions and groundless suspicions as destitute of probability as of proof, as a mere pretext, in case that, contrary to all good faith and the most solemn repeated professions of friendly intentions, the court of Spain should have meditated or resolved on hostilities against England; which as, on the one hand, his Majesty will, with his usual moderation, endeavour to prevent by all means consistent with his own dignity and that of the nation; so, on the other, he will, with the utmost firmness and resolution, strenuously repel with that vigour which becomes a monarch conscious of being attacked without cause or provocation, and zealous at all times to assert and vindicate the honour of his crown, and the rights of his subjects.

The patience and calmness with which your excellency listened to what must have been so painful to hear, as the vague declamation with which the Spanish secretary eluded, for the second time, returning any answer to the question you so properly persevered in urging to him; and your having still returned to the charge, after an interval of an hour, without any effect, except the dry unsatisfactory telling you, that the count de Fuentes and M. Bussy "had declared to his Majesty's ministers all that was meant to be communicated to them," has so unpromising an aspect as to give the King very little reason to hope for good effects from farther patience and forbearance: and so unsatisfactory a result of your excellency's enquiries reduces his Majesty to the disagreeable necessity of demanding a precise and categorical answer from the court of Madrid, relative to their intention with regard to Great Britain in this critical conjuncture; and therefore it is his Majesty's express command, that your excellency, making such use of this dispatch as you shall judge proper, do, without loss of time, demand of the Spanish Secretary of State, in his Majesty's name, an immediate, clear, and categorical answer to that question; and that you do assure M. Wall, with becoming firmness, and in the most explicit terms, that any procrastination, ambiguity, or evasion, will be considered as ample and sufficient grounds for authorizing his Majesty to take such steps as his royal wisdom shall dictate, for the honour and dignity of his crown, and for the protection and security of his people. At the same time that your excellency cannot be too firm and explicit upon this question, you will be particularly cautious not to use the least harshness in your manner, or mix any thing in your conversation with the Spanish minister which can have the least tendency to indispose or irritate him. Nothing would more essentially contribute to his Majesty's real satisfaction, than your excellency's bringing back that court to a dispassionate and reasonable way of thinking; and your procuring such an answer as might justify his Majesty's continuation of the same friendly and amicable intercourse, which is not more the interest of both countries than his Majesty's sincere desire. Various are the proofs that could be given of this disposition of his Majesty: notorious it is to all Europe, that, in his Majesty's councils, every thing which might indicate a tendency to break through that good understanding between the two courts, which he is so anxious to maintain, has been cautiously avoided. Happy if such measures, properly attributed to the rectitude of his royal mind, should contribute towards the salutary effects which his moderation thereby proposed: but should, on the contrary, a false and injurious interpretation construe into timidity his Majesty's desire of maintaining peace with Spain, provided that desire was reciprocal on the part of the Catholic king;

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and should a rupture ensue, after every becoming facility given on the part of Great Britain; his Majesty will, at least, have the consolation to reflect, that, whatever the consequences may be, he can appeal to all the world for the rectitude and purity of his intentions, and for the moderation he has observed, in endeavouring to prevent so great a calamity, by every step which his honour and dignity could permit. I am, &c.

EGREMONT.

LETTER from the Earl of Egremont to the Earl of Bristol, dated Nov. 19, 1761. Most Secret.

My lord; having, in my public letter of this date, signified to your excellency the King's pleasure, with regard to your letter of the 2d instant, by Potter, I have it further in command from his Majesty, to acquaint your excellency, for your particular government in a matter of so much importance, that, if the court of Spain should have refused to give your excellency the satisfaction required in my most secret letter of the 28th past, or the alternative, which, by my secret and confidential letter of the same date, your excellency was permitted to take *ad referendum*; or that, having demanded the categorical answer required of M. Wall in my letter of this day's date, he should, either in direct terms, or by implication, acknowledge having entered into any agreement with, or entertaining any intention of joining, the French in this war, or of acting hostilely towards the King, or any way departing from their neutrality, it is the King's pleasure, that in any of those cases, your excellency do forthwith come away from Madrid without taking leave, and repair with all convenient speed to Lisbon, where you will find a ship of war ready to receive your excellency, and to sail with you to England: and you are to signify to the Spanish minister, that either a peremptory refusal of giving any satisfaction, or of disavowing any intention to take part with our declared and inveterate enemies in the present war, cannot be looked upon by his Majesty in any light, but as an aggression on the part of Spain, and as an absolute declaration of war.

I am, &c. EGREMONT.

LETTER from the Earl of Egremont to the Earl of Bristol, dated Nov. 19, 1761. Separate and Secret.

My lord; I am commanded by the King to acquaint your excellency, that, in case you shall have sufficient reason to conclude, from the observations which you shall have made, from the time of your dispatching Potter to that of his return, that there are little or no hopes of such an answer as your excellency is ordered to demand from the Spanish minister, you will, in that case, take the most private and most expeditious manner that the thing will admit of, to give immediate notice of the critical situation in which we stand with regard to Spain, to major general Parslow at Gibraltar, and to all his majesty's consuls in Spain and Portugal, in order that they may put themselves, and his Majesty's trading subjects, properly on their guard against whatever may happen; and your excellency will also take the proper means to make the same communication to sir Charles Saunders. But when your excellency shall find your departure from Madrid inevitable, and that in conformity to his Majesty's commands, signified by the several letters of this dispatch, you must immediately set out for Lisbon; in such case, you are, without loss of time, to send off, in the most secure, secret, and expeditious manner, a letter to admiral Saunders, and another to commodore Keppel, acquainting each of those officers that you have taken your final resolutions to leave the court of Madrid. Your letter to admiral Saunders you will convey through major general Parslow, to be forwarded with the utmost expedition to the admiral; sending, at the same time, a duplicate to Mr. Hay at Lisbon, to be dispatched by a frigate which the lords of the admiralty have ordered there for that purpose: and your excellency's letter to commodore Keppel you will also transmit to Mr. Hay, to be by him forwarded by another frigate which is ordered to Lisbon.

As it is of the utmost importance to his Majesty's service, that the notification of your excellency's final resolution to leave Madrid, should not only be made the moment such resolutions are taken by your excellency, but that they should reach admiral Saunders by the quickest and securest conveyance possible; it is the King's express command, that, should your excellency have the least reason to suspect that the messenger or person whom you shall employ to carry such notification to Gibraltar or Lisbon, may be intercepted or stopped, in that case, your excellency will immediately set out yourself for the

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frontiers of Portugal, and from thence you will dispatch to Mr. Hay your letters, as well for admiral Saunders, as commodore Keppel, to be forwarded by that minister, as above; and your excellency will leave such person at Madrid as you shall think proper, to take care of your private affairs there, which must necessarily be left in some confusion by your strict compliance with his Majesty's commands on this head.

I shall only add, that a very exact execution of the King's commands, signified in this letter, being of the utmost importance to his Majesty's service, it is expected, that your excellency will pay a most particular attention to them. I am, &c. EGREMONT.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Escurial, Nov. 9, 1761. Received Dec. 3.

My lord; accounts have lately been transmitted to me from several ports of Spain, in relation to the military preparations going forward in this kingdom; and the whole discourse runs upon an approaching rupture between the King and his Catholic majesty. Two Spanish ships of war are immediately to sail from Cadiz; the one to convoy the assogues, and the other to protect several Dutch vessels freighted with ammunition and stores, bound to Carthagena in America. Eleven large ships of the line, now lying at Ferrol, are rigged, manned, and ready to put to sea at a short warning, together with two frigates; one of which is bound to the South Seas, with cannon balls, powder, and many other implements of war.

By advices from Barcelona I hear, that two of the Catholic king's ships of war sailed from thence, the end of last month, with two large barks under their convoy, loaded with 3,500 barrels of gunpowder, 1,500 bomb-shells, 500 chests of arms, and a considerable quantity of cannon balls of different dimensions; which cargo, it is imagined, is destined for the Spanish West Indies: many more warlike stores are ready to be shipped from Catalonia; and it was reported, an embargo was laid on large barks at Barcelona for that purpose.

Five battalions of different regiments of infantry, and two squadrons of dragoons, are at Cadiz, waiting their final orders to embark for America; this corps makes in all about 3,600 men.

I have desired his Majesty's consuls would be very attentive to all that is going forward in the several places where they reside; and that they would not fail sending me constant accounts of what they observed, in order for my being more particular in my intelligence to your lordship.

I never see general Wall, to talk upon business, but that he expatiates upon the haughtiness with which Great Britain has long treated the crown of Spain; as if we imagined, by that means, to intimidate this country from pursuing its claims; or that we should thereby avoid doing justice to the Catholic king, concerning our ill grounded settlements upon the logwood coasts, as well as with regard to our denying the Spanish subjects the liberty of fishing upon the Newfoundland coasts. I am, &c. BRISTOL.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Nov. 16, 1761. Received Dec. 8.

My lord; the messenger Ardouin delivered to me on the 10th instant, at the Escurial, the honour of your lordship's dispatches of the 28th past, with the several inclosures therein referred to; and, by the last post, I received your letter of the 20th of the same month, in which your lordship informed me, that all mine to the 21st Sept. had been regularly laid before his Majesty. On Saturday the 14th, the Catholic king, with the rest of the royal family, arrived in this capital, for a part of the winter season.

Immediately after the receipt of your lordship's dispatch, by the messenger, I went to general Wall, with whom I had a long conference: I have seen his excellency once since. As the hurry of the court's departure from the Escurial prevented my having any answer at that time; and the present bustle, attending the arrival at the Buen Retiro, will not allow the Spanish minister leisure, for some days, to renew our discourses on the interesting subject contained in his Majesty's commands to me; I must suspend sending home any account of my negociations, till I can give a particular detail of the whole.

The military preparations in this kingdom, are very far from slackening. Sixteen hundred men, draughts from different corps of infantry, with several officers, entered the town of Ferrol the beginning of this month; they were expected to embark shortly for the West Indies, and are to be escorted by three ships of the line. A regiment of foot is lately gone to Majorca, and another has orders to hold

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itself in readiness to be sent to the same island. The Spaniards have, at present, including all their naval force in America, nineteen ships of war in those seas: I have heard various accounts of the number of frigates which attend that West India fleet, but I believe there are not fewer than sixteen of different sizes.

What may be the ultimate resolution of this court, no one can, as yet, pretend entirely to determine; but, it is certain, his Catholic majesty is taking every measure which can put him in a condition to be prepared for all events. It is difficult to attain at the real truth of any of the Spanish projects; for, where one man only is consulted, secrecy and expedition must naturally attend the execution of their designs. I am, &c. BRISTOL.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Nov. 23, 1761. Received Dec. 14.

My lord; the comte de la Tour, embassador from the court of Turin, presented his re-credential letters yesterday to the Catholic king, in a private audience; the bad state of this minister's health, for several months past, had obliged him to solicit his Sardinian majesty's leave to retire from business.

It will not be possible for me to re-dispatch a messenger to England for several days, notwithstanding my having had another long conference with M. Wall, at which I entered minutely into every argument suggested to me by your lordship. Although I dare not flatter myself with having gained any ground upon the Spanish minister, yet I never before observed his excellency listen with greater attention to my discourse than at our late meeting. When he answered me, it was without warmth; when he applied to me, it was friendly; and, after long reasonings on both sides, we parted with reciprocal protestations to each other, of our earnest desire to continue in peace. General Wall also promised me to acquaint his Catholic majesty circumstantially with what had passed between us. I intreat your lordship not to think me inconsequential in what I relate: it is my duty to mention the result of each interview with the Spanish Secretary of State. All I sent an account of in my letters of the 2d instant, was literally what had happened at that time; and the change I have just hinted, when I last saw M. Wall, is equally certain.

Our enemies have unjustly asserted, that the Indians, who are besieging the Spanish fort of Pensacola, were prompted to that undertaking by the King's subjects, and are even now assisted by the Georgians in carrying on their attacks. I do not think general Wall gives credit to so great a falsehood advanced by the French; but, if the Catholic king could harbour so ungenerous a suspicion of our conduct, I hope I have said enough to his minister to prove how very far we should be from countenancing such a proceeding, much less promoting so hostile a measure against a power, whose friendship Great Britain was seeking to cultivate.

I seized on that favourable opportunity of expatiating on the inseparable connection of interests that could not fail (I hoped soon) to unite us, notwithstanding the mean artifices and insidious attempts which France, under the specious veil of friendship towards the court of Madrid, had employed to sow dissention between us; and that merely with a view to drain these royal coffers of its treasure, to be expended for the support of their declining colonies, without any real regard to the Spanish pretensions. I am, &c.

BRISTOL.

Translation of a PAPER delivered by the Count de Fuentes to the Earl of Egremont, Dec. 21, 1761.

My lord Bristol gave me, some days since, the inclosed memorial. He sets forth, in the first article, the satisfaction of his court, in the king's justice, in ordering the restitution of the ship the Speedwell, and in the moderation with which the privateer the King George has been treated: there is nothing to answer to this. His majesty is very glad that his rectitude and moderation are acknowledged by the British ministry.

My lord Bristol says, in the second article, that having communicated to his court, in a dispatch in the month of September last, agreeably to the assurances he had received, the king's intention to cultivate a good correspondence with his Britannic Majesty; he had been expressly ordered to make known the real pleasure which such a declaration of the sentiments of our court had occasioned. I do not remember any thing, at this time, more particular than on an infinite number of other occasions; neither do I myself comprehend the motive for heightening this. It is very true, that, at all times, either in

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the reign of the late king Don Ferdinand, or in that of the present king, the Spanish ministers have always repeated the desire of their court, to cultivate the most perfect correspondence with that of London. My lord Bristol adds, in the same article, that he must not omit to assure, that no order has been sent for augmenting the fortifications of Gibraltar: this does not surprize the king, as he has not given cause for the least suspicion; and he would be no more surprized at the contrary, the English being no less masters to augment them, than the King is to do it in his own places.

There follows another article, wherein my lord Bristol expresses, that the King his master has nothing more at heart, than to strengthen the most cordial and the most sincere friendship with the King, and that he does not doubt meeting with the same dispositions on the part of Spain; for there is nothing more evident than the mutual advantage which must, at all times, result to the two kingdoms from such a reciprocity. All this discourse is only to bring in, after such a declaration, that it ought not to be surprising, that his court wishes and requires, from the Spanish ministers, a communication of the treaty lately concluded between the King and his most Christian majesty, or the articles that relate to her. You know how easy it would be for the King to give a positive answer, but his own dignity hinders him from it; considering this demand as a necessary condition for entering upon a negociation with Spain, on differences which they own have subsisted a long time; without which, he says, how can his Majesty persuade himself to enter upon a negociation with Spain? Whoever should hear talk of entering upon a negociation would believe, that it was not as yet begun, and that our differences had never been spoke of. It would also be thought that a favour was done us, by considering them as worthy of a negociation. It is a very singular method of that ministry not to mention so many offices, memorials, and conferences, which have passed within these six years, and particularly after the King sent you to that court, by which both our just pretensions, and the incontestable right of our complaints, are proved; always confirming, that without a reparation it is impossible to cement the good correspondence of the two monarchies, or the friendship of the two sovereigns, so worthy of the reciprocity of their esteem. If all that we have set forth, both by word of mouth, and in writing: if all the answers and replies on each side, in a word, if so many proofs with which we have concluded, are not called a negociation, I don't know what can be one.

My lord Bristol promises, that if the King makes known the existence, or non-existence, of the said treaty, or his engagements relative to the English, the King his master, this obstacle once removed, is determined, without loss of time, to enter into an amicable discussion of the matters which make the subject of the disputes of the two crowns; not at all doubting, but that they may be easily adjusted, and being convinced, that a reciprocal and extensive confidence cannot fail to suggest expedients to save the dignity and the honour of the two kings. Even what his court pretends to ought not to be considered as of great value to her, since she only offers in return what we are tired of doing. What other discussion of the matter of our disputes, than what has been agitated, during so long a negociation; what other expedients can be found to save the honour and dignity of the two kings, that have not been proposed and exhausted in a contest of six years? And if any are found at London, Spain well deserves, by the patience with which she has pursued her instances, and with which she has seen the various successes of the English in this war, the correspondence of declaring them to her without condition. The most noble expedient, and which does the most honour to sovereigns, and to those who are not so, is not to possess, without right, the property of another person; to restore it, and even to chastise the usurpers, without waiting, if it can be, till the injured demands it.

My lord Bristol ends, with an article absolutely foreign to our affairs, by declaring, that the most perfect unanimity reigns in the councils of Great Britain; and that the king is resolved to push the war with all possible vigour, till his enemies will submit to a peace, suitable to the successes of the English arms, and which may have a solid and durable appearance. We have no idea of answering directly to this article: but the two conditions, which the English desire in the peace clearly contradict themselves, as all the world have just seen. Every impartial person will decide, that the conditions which have been offered by France and rejected by England, were not disproportioned to the

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advantages of the English arms; and will attribute their inadmission to other views, which ought not to be indifferent to the other maritime powers, and who possess dominions beyond sea; and will be astonished to see, that England, who wishes for a peace that appears solid and durable, is angry, however, at the insinuation made to her by France, representing to her, how beneficial it would be, to reconcile at the same time, our differences, in order to avoid the danger of recommencing a new war, for our assistance.

My lord Bristol demanded of us then, by another memorial, if France had taken that step with the King's consent; as he now demands of us, if the treaty with France exists or not. We answered him sincerely, Yes; proving to him the regularity of it: and we added, on that occasion, to the expressions of that court, on the good correspondence which they wished for, how much they were esteemed; but that it was necessary, that the proofs of the fact should accompany them; and, as if such a memorial had never been given on our side, and entirely forgetting it, another is presented to us, with a new demand, with the former general expressions and with so unexpected a novelty, as the offer to enter into a negociation, so strongly discussed, that it has been reduced, during your embassy, to the last Yes, or to the last No.

When once you shall be informed of all that I have just set forth, you may acquaint that ministry of it, either by word of mouth or in writing; in order that we may never be reproached, for not having answered my lord Bristol's memorial; and in order that they may perceive the irregularity there is, that the King should always satisfy their curiosity, and that his just demands should never be satisfied.

LETTER from the Earl of Egremont, to the Earl of Bristol, dated Dec. 22, 1761.

My lord; I am to acquaint your excellency, that it is reported in the city, that part of admiral Holmes's squadron has lately seized some Spanish barks at Monte Christi, laden with sugar, &c. and has treated them as if they were legal prize.

Though this intelligence is hitherto unsupported by any information which our most diligent enquiries can collect at the admiralty, or elsewhere, yet I had the King's permission to speak of it to the conde de Fuentes, and to express his Majesty's concern upon hearing it; to which I added his Majesty's assurances, that this matter shall be most strictly enquired into; and, should the facts alleged prove true, not a moment should be lost in taking such steps, as, it is not doubted, will thoroughly satisfy his Catholic majesty with regard to the unjustifiable and unauthorized conduct of any of his servants upon this occasion: and that nothing might be omitted which could lead to a speedy and thorough knowledge of this matter, the King has ordered a ship of war to be immediately dispatched to the West Indies, with directions, to make the strictest examination into the foundation of this report, that such farther steps may be taken as the case shall appear to require.

It is in order to prevent the malicious use which might be made of this unlucky accident, and to shew his Majesty's readiness to do the strictest justice to the Catholic king, that I am directed to transmit to your excellency, without loss of time, the real state of this affair; not doubting but your excellency, without any particular directions on this head, will, at this critical conjuncture, let M. Wall see, in a true light, and in its full extent, that it is not more the invariable and steady principle of his Majesty's conduct towards the crown of Spain, to support his own dignity and the just rights of his subjects, than it is, not only to redress a real injury done to his Catholic majesty's subjects, but even to prevent a complaint. I am, &c. EGREMONT.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Dec. 11, 1761. Received Dec. 24.

My lord; this is the only method I am allowed to take, to communicate to your lordship my intention of setting out as soon as possible for Lisbon. I have obeyed the King's commands. By the paper marked A, your lordship sees the substance of what was mentioned at my first conference with general Wall; by that with the letter B, what passed at our second interview: copies of both which papers the Spanish minister desired he might have. These conferences were the 6th and 8th instant. General Wall, on the 10th at night, sent me two letters, one an office copy and translation of which are distinguished C and D; the other by a private letter in his own hand. I had prepared some very long dispatches for your lordship, relating all particulars, but I was de-

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nied post horses to send a messenger, even to ask for passports from the court of Portugal; and M. de Llanos, who is just gone from me, has owned, in the most polite terms, that I could not, by any method, send any person whatever to any part of Spain, for I know I am surrounded with their spies. I would, if it were possible for me, set out immediately for the frontiers of Portugal, the nearest town of which kingdom is 240 miles from hence; and such are the roads that no carriage can go it under nine days; but I am, at this moment, and have been for so long, so excessively out of order, that, were I to attempt getting from hence even so soon as I could get mules, which all those who furnish them seem to try to delay my doing, my deplorable situation is such, that I should be forced to stop at some village near Madrid, without being able to get forward: however, I have tried at a method I do not mention, for fear of this letter being decyphered, to convey the whole intelligence to admiral Saunders, general Parslow, and the consuls. Mr. Porten, seeing how ill I am, has promised to set out forthwith for Lisbon; and by him I shall be able to have the letters forwarded which I have now ready. I propose dispatching a messenger when I do get into Portugal, with a great number of letters for your lordship. The messenger being to set out so soon, I have not time to add more. I am, &c. BRISTOL.

Copy of NOTES given to General Wall, at our First Conference, the 6th Dec. 1761. (A.)

Count of Fuentes accompanied the Catholic king's letter to his Majesty, with the strongest professions of friendship from Spain.

The King's particular delicacy, in concerting military plans, to avoid any hostilities towards objects that could give umbrage to his Catholic majesty.

An answer concerning the treaty; as well as to know the intention of Spain, with regard to Great Britain.

Nothing could more essentially give real satisfaction to his Majesty, than my procuring such an answer, as might contribute to the continuation of that friendly intercourse, which it is not more the interests of both crowns to maintain, than it is the King's sincere desire to cultivate.

Copy of NOTES wrote down in the Closet of General Wall, and given by me to his Excellency, Tuesday, the 8th December, the day of our Second Conference. (B.)

Whether the court of Madrid intends to join the French, our enemies, to act hostilely against Great Britain? or to depart in any manner from its neutrality?

A categorical answer is expected to those questions; otherwise, a refusal to comply will be looked upon as an aggression, on the part of Spain, and a declaration of war.

General Wall, B. Retiro, 10th Dec. 1761. Translation. (D.)

Most excellent lord; your excellency having expressed to me, the day before yesterday, and being even pleased to put in writing, that you had orders to ask a positive and categorical answer to the question, if Spain thought of joining herself with France against England? Declaring, at the same time, that you should look upon the refusal as a declaration of war; and that you would, in consequence, leave this court. The spirit of haughtiness and of discord, which dictated this inconsiderate step, and which, for the misfortune of mankind, still reigns so much in the British government, is what made, in the same instant, the declaration of war, and attacked the King's dignity. Your excellency may think of retiring when, and in the manner, is convenient to you; which is the only answer that, without detaining you, his Majesty has ordered me to give you. The indisposition your excellency saw me in, scarce permitted me to go to receive the King's command.

May your excellency carry away with you all the happiness which corresponds to your personal qualities, and the constant remembrance of the sincere affection with which I am, praying God for the long preservation of your life, most excellent lord, I kiss your excellency's hands, &c. Don RICARDO WALL.

Private, General Wall, Madrid, 10th Dec. 1761. Translation.

My lord; my uneasiness, ever since the moment that your excellency communicated to me the orders which you have received from your court, has not permitted me to delay, any longer, your excellency's instances, full of attention; and I have been (notwithstanding my indisposition) to give an account to the king my master, of the last questions which you

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have been ordered to put to my court. Your excellency will see, by the inclosed letter, what are his majesty's sentiments; you know mine for your person. I hope to have the honour of seeing you, and confirming to you again, by word of mouth, the esteem and the respect with which I am perfectly, my lord, &c.

WALL.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Nov. 30, 1761. Received Dec. 25.

My lord; I was honoured with your lordship's letter of the 6th instant, by the last post; and I received, enclosed therein, his Majesty's most gracious speech to both Houses of Parliament, together with a copy of the motion made in the House of Peers to address the King on that occasion; in which I had the sincere pleasure of observing the warmest returns of duty and gratitude expressed towards our sovereign, for the repeated marks of royal care and affection, which we have all experienced since his Majesty's happy accession to the throne.

Although M. Wall had received the King's speech from the count de Fuentes, yet I read it over with his excellency; who told me, he did not doubt of its giving as much satisfaction in England, as it had met with approbation abroad, from the great candour and moderation which was displayed throughout the whole.

Your lordship will, I flatter myself, do me the justice to believe, that my not dispatching an answer to your important dispatch of the 28th past, does not proceed from any dilatoriness in me. I have frequently seen M. Wall, and have as often entered into discourse concerning what was so particularly recommended by your lordship; yet the Spanish minister has hitherto cautiously avoided disclosing the sentiments of this court; alledging, that he expected shortly to receive the Catholic king's commands to acquaint me with the resolutions of Spain, relative to my applications: and his excellency assured me, at our last meeting, it would not be long before he should enable me to send home a messenger.

Orders have been transmitted to Cadiz for the fortifying of the Caracca in that neighbourhood. Two large Spanish ships of the line arrived lately there, with naval stores, from the Corunna. I am, &c.

BRISTOL.

Translation of a NOTE delivered to the Earl of Egremont, by the Count de Fuentes. December 25th, 1761.

The count de Fuentes, the Catholic king's ambassador to his Britannic majesty, has just received a courier from his court, by whom he is informed, that my lord Bristol, his Britannic majesty's ambassador at the court of Madrid, has said to his excellency M. Wall, minister of state, that he had orders to demand a positive and categorical answer to this question, viz. If Spain thinks of allying herself with France against England? And to declare, at the same time, that he should take a refusal to his demand for an aggression and declaration of war; and that he should, in consequence, be obliged to retire from the court of Spain. The above minister of state answered him, that such a step could only be suggested by the spirit of haughtiness and of discord, which for the misfortune of mankind, still reigns but too much in the British government; that it was in that very moment that the war was declared, and the king's dignity violently attacked: that he might retire how and when he should think proper.

The count de Fuentes is, in consequence, ordered to leave the court and the dominions of England; and to declare to the British king, to the English nation, and to the whole universe, that the horrors into which the Spanish and English nations are going to plunge themselves, must be attributed only to the pride, and to the unmeasurable ambition, of him who has held the reins of the government, and who appears still to hold them, although by another hand: that if his Catholic majesty excused himself from answering on the treaty in question, between his Catholic majesty and his most Christian majesty, which is believed to have been signed the 15th of August, and wherein it is pretended there are conditions relative to England, he had very good reasons; first, the king's dignity required him to manifest his just resentment of the little management, or to speak more properly, of the insulting manner, with which all the affairs of Spain have been treated during Mr. Pitt's administration; who, finding himself convinced of the justice which supported the king in his pretensions, his ordinary and last answer was, that he would not relax in any thing, till the Tower of London was taken sword in hand.

Besides, his majesty was much shocked

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to hear the haughty and imperious tone with which the contents of the treaty were demanded of him. If the respect due to royal majesty had been regarded, explanations might have been had without any difficulty: the ministers of Spain might have said frankly to those of England, what the Count de Fuentes, by the king's express order, declares publicly, viz. that the said treaty is only a convention between the family of Bourbon, wherein there is nothing which has the least relation to the present war: that there is in it an article for the mutual guaranty of the dominions of the two sovereigns; but it is specified therein, that that guaranty is not to be understood but of the dominions which shall remain to France, after the present war shall be ended: that although his Catholic majesty might have had reason to think himself offended, by the irregular manner in which the memorial was returned to M. de Bussy, minister of France, which he had presented, for terminating the differences of Spain and England, at the same time with the war between this last and France, he has however dissembled; and from an effect of his love of peace, caused a memorial to be delivered to my lord Bristol, wherein it is evidently demonstrated, that the step of France, which put the minister Pitt into so bad humour, did not at all offend either the laws of neutrality, or the sincerity of the two sovereigns: that further, from a fresh proof of his pacific spirit, the king of Spain wrote to the king of France, his cousin, that if the union of interest in any manner retarded the peace with England, he consented to separate himself from it, not to put any obstacle to so great a happiness. But it was soon seen that this was only a pretence, on the part of the English minister: for, that of France, continuing his negociation, without making any mention of Spain, and proposing conditions very advantageous and honourable for England, the minister Pitt, to the great astonishment of the universe, rejected them with disdain; and shewed, at the same time, his ill will against Spain, to the scandal of the same British council; and unfortunately he has succeeded but too far in his pernicious design.

This declaration made, the Count de Fuentes desires his excellency, my lord Egremont, to present his most humble respects to his Britannic majesty; and to obtain for him pass-ports, and all other facilities, for him, his family, and all his retinue, to go out of the dominions of Great Britain, without any trouble, and to go by the short passage of the sea, which separates them from the continent.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Dec. 7, 1761. Received Dec. 29.

My lord; I received last post the honour of your lordship's letter of the 17th of Nov. inclosing the address, presented the preceding day to his Majesty, by the House of Commons, wherein the very warm and affectionate assurances of their zeal for the King's service, and resolutions to support his Majesty with the utmost vigour, in the prosecution of the war, were so satisfactorily evident to all his Majesty's dutiful servants and subjects. You cannot doubt, my lord, of my having carried the Address to general Wall; his excellency read it over before me with attention, and afterwards said, that it was full of a right and proper zeal; at the same time, that it was truly dutiful and affectionate; adding, that he was persuaded the King would always experience from his most faithful Commons the like sentiments, at which he should ever truly rejoice.

The patriarch of the Indies received last Saturday the cardinal's cap from Rome, having been named to that dignity by his Catholic majesty: his eminence is brother to the duke of Medina Celi, and now is stiled Cardinal de la Cerda.

The messenger Potter arrived here the 5th instant at night, and brought me the honour of your lordship's dispatches of the 19th past. I saw M. Wall the 6th in the morning, who was confined to his room by an accident that had happened to one of his feet. We had a very long conference upon the subject of your lordship's letters; and his excellency has this day wrote to acquaint me with his desire of my returning to him to-morrow morning; so that I expect to be able to dispatch this messenger to England in a few days. I am, &c. BRISTOL.

Translation of the ANSWER delivered to the Count de Fuentes, by the Earl of Egremont, Dec. 31, 1761.

The earl of Egremont, his Britannic majesty's secretary of state, having received from his excellency the Count de Fuentes, ambassador of the Catholic king at the court of London, a paper, in which,

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besides the notification of his recall, and the demand of the necessary passports to go out of the King's dominions, he has thought proper to enter into what has just passed between the two courts, with a view to make that of London appear as the source of all the misfortunes which may ensue from the rupture which has happened. In order that nobody may be misled by the declaration which his excellency has been pleased to make to the King, to the English nation, and to the whole universe; notwithstanding the insinuation, as void of foundation as of decency, of the spirit of haughtiness and of discord, which his excellency pretends reigns in the British government, to the misfortune of mankind; and, notwithstanding the irregularity and indecency of appealing to the English nation, as if it could be separated from its King, for whom the most determined sentiments of love, of duty, and of confidence, are engraved in the hearts of all his subjects; the said earl of Egremont, by his Majesty's order, laying aside, in this Answer, all spirit of declamation, and of harshness, avoiding every offensive word, which might hurt the dignity of sovereigns, without stooping to invectives against private persons, will confine himself to facts with the most scrupulous exactness: and it is from this representation of facts, that he appeals to all Europe, and to the whole universe, for the purity of the King's intentions, and for the sincerity of the wishes his Majesty has not ceased to make, as well as for the moderation he has always shewed, though in vain, for the maintenance of friendship and good understanding between the British and Spanish nations.

The King having received undoubted informations, that the court of Madrid had secretly contracted engagements with that of Versailles, which the ministers of France laboured to represent in all the courts of Europe, as offensive to Great Britain; and combining these appearances with the step which the court of Spain had, a little time before, taken, towards his Majesty, in avowing its consent (though that avowal had been followed by apologies) to the Memorial presented the 23d of July, by the Sieur de Bussy, minister plenipotentiary of the most Christian king, to the King's secretary of state; and his Majesty having afterwards received intelligence, scarce admitting a doubt, of troops marching, and of military preparations making in all the ports of Spain, judged that his dignity, as well as his prudence, required him to order his embassador at the court of Madrid, by a dispatch dated the 28th of October, to demand, in terms the most measured, however, and the most amicable, a communication of the treaty recently concluded between the courts of Madrid and Versailles, or, at least, of the articles which might relate to the interest of Great Britain; and in order to avoid every thing which could be thought to imply the least slight of the dignity, or even the delicacy, of his Catholic majesty, the earl of Bristol was authorised to content himself with assurances, in case the Catholic king offered to give any, that the said engagements did not contain any thing that was contrary to the friendship which subsisted between the two crowns, or that was prejudicial to the interests of Great Britain, supposing that any difficulty was made of shewing the treaty. The King could not give a less equivocal proof of his dependence on the good faith of the Catholic king, than in shewing him an unbounded confidence in so important an affair, and which so essentially interested his own dignity, the good of his kingdoms, and the happiness of his people.

How great then was the King's surprize, when, instead of receiving the just satisfaction which he had a right to expect, he learnt from his ambassador, that, having addressed himself to the minister of Spain for that purpose, he could only draw from him a refusal to give a satisfactory answer to his Majesty's just requisitions, which he had accompanied with terms that breathed nothing but haughtiness, animosity and menace, and which seemed so strongly to verify the suspicions of the unamicable disposition of the court of Spain, that nothing less than his Majesty's moderation, and his resolution taken to make all the efforts possible, to avoid the misfortunes inseparable from a rupture, could determine him to make a last trial, by giving orders to his ambassador to address himself to the minister of Spain, to desire him to inform him of the intentions of the court of Madrid towards that of Great Britain, in this conjuncture, if they had taken engagements, or formed the design to join the King's enemies in the present war, or to depart in any manner from the neutrality they had hitherto observed; and to make that minister sensible, that, if they persisted in refusing all satisfaction, on demands so just, so necessary, and so interesting, the King could not but con-

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sider such a refusal as the most authentic avowal, that Spain had taken her part, and that there only remained for his Majesty to take the measures which his royal prudence should dictate for the honour and dignity of his crown, and for the prosperity and protection of his people: and to recall his ambassador.

Unhappily for the public tranquillity, for the interest of the two nations, and for the good of mankind, this last step was as fruitless as the preceding ones; the Spanish minister, keeping no farther measures, answered drily, "That it was in that very moment that the war was declared, and the king's dignity attacked, and that the earl of Bristol might retire, how, and when, he should think proper."

And in order to set in its true light the declaration, "That if the respect due to his Catholic majesty had been regarded, explanations might have been had without any difficulty; and that the ministers of Spain might have said frankly, as M. de Fuentes by the king's express order, declares publicly, that the said treaty is only a convention between the family of Bourbon; wherein there is nothing which has the least relation to the present war; and that the guaranty, which is therein specified, is not to be understood but of the dominions which shall remain to France after the war." It is declared, that, very far from thinking of being wanting to the respect acknowledged to be due to crowned heads, the instructions given to the earl of Bristol have always been, to make requisitions on the subject of the engagements between the courts of Madrid and Versailles, with all the decency, and all the attention possible; and the demand of a categorical answer was not made till after repeated and the most stinging refusals to give the least satisfaction, and at the last extremity: therefore, if the court of Spain ever had the design to give this so necessary satisfaction, they had not the least reason that ought to have engaged them to defer it to the moment when it could no longer be of use. But, fortunately, the terms in which the declaration is conceived, spare us the regret of not having received it sooner; for it appears, at first sight, that the answer is not at all conformable to the demand. We wanted to be informed, If the court of Spain intended to join the French, our enemies, to make war on Great Britain; or to depart from their neutrality? Whereas the answer concerns one treaty only, which is said to be of the 15th of August; carefully avoiding to say the least word that could explain, in any manner, the intentions of Spain towards Great Britain, or the farther engagements they may have contracted in the present crisis.

After a deduction as exact as faithful of what has passed between the two courts, it is left to the impartial public to decide, which of the two has always been inclined to peace, and which was determined on war.

As to the rest, the earl of Egremont has the honour to acquaint his excellency the count de Fuentes, by the King's order, that the necessary passports for him shall be expedited; and that they will not fail to procure him all possible facilities for his passage to the port which he shall think most convenient.

LETTER from the Earl of Bristol to the Earl of Egremont, (Most Secret.) Dated Madrid, Dec. 6, 1761. Received Jan. 9, 1762.

My lord: I took the earliest opportunity, after receiving the honour of your lordship's dispatches of the 28th of October, of informing general Wall how particularly his Majesty had expressed his royal satisfaction at hearing the declarations which had been made to me by his excellency, of the Catholic king's intentions to cultivate a close correspondence with his Majesty; and I told the Spanish minister, I could then authentically assure him, that no orders had been issued for augmenting the fortifications at Gibraltar.

After dwelling upon the King's readiness to come to a speedy adjustment of all the differences subsisting between the two courts, my discourse naturally led towards a repetition of those professions I had, on former occasions, so frequently made use of, to convince the Spanish secretary of state, that the King had nothing more at heart than to continue, and, if possible, to augment that friendship and cordiality which his Majesty sincerely felt for the Catholic king; not doubting but that the like disposition, together with a suitable return from Spain, would be the corresponding effect of such an avowal of his Majesty's sentiments.

After opening myself in this manner, I observed, how consistent it was with the good intelligence that had so long united two friendly courts, reciprocally to enquire into, or to remove, any uneasiness, which the envy and malice of a third might endeavour to sow in the minds of either of

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those amicable powers. Therefore, after France had so openly, as well as industriously, asserted throughout Europe, and but with too much success, that Spain was on the point of embarking in the present war against England, in consequence of a treaty lately concluded between the courts of Madrid and Versailles; it was neither surprizing, nor could it be deemed unreasonable, that his Majesty should desire a communication of that treaty; or, at least, of such articles, as might be deemed to relate, either now or hereafter, immediately or indirectly, to the interests of Great Britain: I took care to explain, that the pressing instances I was ordered to make, did not proceed from any distrust in the King, of the reiterated assurances of Spain's friendship towards England, conveyed so authentically through me, nor from a suspicion of his Catholic majesty's entering into any engagements of a hostile nature against the King, after all the cordial professions which had been made use of, so much to the contrary; yet the positive language of our enemies, and their boasting assertions, were such, that it was highly expedient to stop the unfavourable impressions they had occasioned at other courts; therefore the King judged it to be indispensably necessary for the dignity of his crown, and not less so for the interests of his people, to require an explanation relative to a report so universally credited, before his Majesty could consent to proceed in a negociation with this court, towards a just and equitable regulation of our long depending differences: besides, as Spain had regularly received extensive communication of all his Majesty's alliances or connections, an unfriendly reserve towards the King, concerning a treaty so recently concluded between this court and that of France, his Majesty's declared as well as inveterate enemy, would unavoidably prevent any candid and impartial discussion of the claims, rights, or differences, of the two kingdoms; yet this obstacle once removed, his Majesty was determined, without loss of time, to discuss, in the most open and cordial manner, the several disputes of both crowns; not doubting, but that a mutual confidence would indicate expedients, which, whilst they saved the dignity and honour of both kings, would naturally point out the method of adjusting matters to the mutual satisfaction, the reciprocal contentment, and, consequently, the permanent advantage of both nations.

As the French partizans had so successfully persuaded many considerable persons at this court, that the spirit of the war would subside by the late change in the English ministry, that disunion and an unconnected system now presided amongst the several members who compose the present administration; I thought it highly incumbent upon me to mention the thorough harmony and perfect unanimity which subsisted in his Majesty's councils, together with the settled determination to carry on the war with vigour, although his Majesty, from his great clemency and unequalled moderation, continued to be uniformly disposed to put a stop to the dreadful calamities of war, as soon as the King could perceive his enemies were inclined to agree to such terms, as the honour of his crown, and the success of his Majesty's forces, naturally claimed; without which there could be no prospect of a lasting, solid peace, such as might insure mankind from the dreadful calamities so many nations had, during the present war, experienced in the different parts of the world.

For greater accuracy, and to avoid blending my own discourse with the Spanish minister's reasonings, I have united, in the former part of this letter, the chief substance of what I advanced in our several conferences; and will now proceed to relate the principal tenor of M. Wall's arguments, without intermixing any of my answers thereto, in order to obviate any appearance of confusion.

His excellency first mentioned his having received the Catholic king's commands to assure me, how agreeable it was to this court, to find the uprightness and moderation of Spain was acknowledged, where it had given so much satisfaction: he added, his not recollecting the particular dates of those times, when his excellency had assured me of the sincere dispositions of his Catholic majesty, to cultivate the closest correspondence with the King, since he had, on so many occasions, repeated the same assurances.

M. Wall received, with an apparent indifference, what I said concerning there having been no additional works carried on at Gibraltar, when I last hinted it; yet that was not the case, when I first communicated to the Spanish minister the contents of general Parslow's letter, wherein it was positively asserted, there had not been any augmentation to the fortifications of that place.

His excellency then told me, the warm

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and strong expressions I had made use of, to convey the King's earnest desire to cultivate the closest correspondence with his Catholic majesty, could never be received, but with sincere satisfaction, by the court of Madrid; yet, after my having been so often directed to hold the same language, unaccompanied by any proofs of those dispositions, it could not seem extraordinary, if Spain still sought and pressed the redress of those grievances which had been so long depending, and which she thought herself so little advanced towards obtaining the relief of.

With regard to the treaty lately concluded between the Catholic king and his most Christian majesty, the secretary of state said, his royal master did not judge it to be consistent with his dignity, to grant either the communication of it, or to satisfy the British curiosity, in relation to any articles which we imagined had a relation to our concerns; yet his excellency added, as from himself, he could give a positive answer to what I asked with the utmost facility; but here he broke off.

After some pause, the Spanish minister resumed his discourse, by alledging, his court had been flattered, by that of London, with an impartial discussion of their disputes from the year 1754; therefore the present promise of entering into a fair disquisition of our reciprocal claims, after the Catholic king had resolved our question concerning the late treaty, seemed to infer, that all the Memorials and counter Memorials, with the several offices and replies, had not been deserving the name of a negociation. His excellency then recurred to what he had so often mentioned on many former occasions, when our differences had been the subject we were treating upon, saying, that, if England would preserve that good faith she had ever piqued herself upon, and which he did not deny to be the general characteristic of the British nation, how could our ministry either avoid, decline, or delay, giving satisfaction to Spain, with regard to the illegal settlements we withheld from this crown upon the logwood coasts? where we owned there were establishments contrary to the territorial jurisdiction of his Catholic majesty; therefore, the noblest, the greatest, and the only honourable expedient for the adjusting of our disputes, would be, for England first to send orders for the evacuation of all our forts, and at the same time to withdraw all the artillery which had been deposited within some entrenchments where cannon was mounted for the defence of them: Was it an amicable proceeding, his excellency said, to profess a friendship for a power, and to be gradually invading their dominion; to usurp their coasts, and then to persevere in maintaining an unjust possession of what we had no right to hold, but seemed determined to keep, as pledges for compelling Spain to grant us the logwood we stood in need of, especially after the most solemn, most authentic, and repeated assurances that had been given, under a royal promise, that England should enjoy that beneficial trade of logwood; and moreover, that, until some equitable regulation of that commerce could be settled, to the mutual satisfaction of both crowns, the English logwood cutters should, upon no pretence whatever, be disturbed in felling, or in carrying away, that commodity; if the orders, his excellency added, were but given for demolishing the fortifications, and a copy of those orders transmitted to the King's ambassador here, to be delivered to his Catholic majesty's ministers, it would at once silence the court of Versailles, and take off the principal handle they made use of to exasperate the Spanish nation against Great Britain.

With regard to the Newfoundland fishery, M. Wall urged, what I have also conveyed in some former dispatches, that the Spaniards, indeed, pleaded, in favour of their claim to a share of the bacallao trade, the first discovery of that island; but acknowledged they never had, or indeed ever required any establishments there: and, what had principally given offence here, as to that article, was my being so frequently ordered to declare, and the Conde de Fuentes having been as often told, that England would never hear of that inadmissible pretension, which was denying in the most peremptory manner, what we had granted by the Spanish treaty of 1721, (confirmed by that of Aix la Chapelle) that the Biscayners and Guipuscoans should enjoy those privileges which they could prove to be their due by right.

Then the Spanish minister said, he could not disguise from me the unfavourable impression all Europe had received, from our breaking off so abruptly the negociations carrying on between England and France for their separate peace; since the conditions the French had complied with were such, as no one, who had not

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read the accounts of what they had agreed to, could have believed the court of Versailles would ever have consented to, by making such extensive sacrifices to the English; and added, since we were not contented with those offers from our enemies, our continuation of the war, to obtain still higher terms, could not avoid giving jealousy to all other maritime powers, who must apprehend too great a balance being flung into the single scale of Great Britain.

This, my lord, to the best of my recollection, and according to the minutes I took, of the heads of our discourse, as soon as our several conferences were over, was the principal subject matter of what passed during our various meetings: the two things only, on the perusal of my notes, I perceive, I have omitted touching upon; the first was, that, as the coasts of Honduras and Campeachy seem to be so indifferently laid down, by the variety of geographers who have published maps of those western parts, or so inaccurately described, in any of the charts I have been able to meet with, I desired general Wall, one day, to point out to me the position of Rio Tinto, the river Wallis, and the Laguna Azul, the three places so often quoted as the English usurpations; and his excellency shewed me their situations, acknowledging to me, that their names were not inserted in any maps; for the Spaniards had never published those drawings their own engineers had made, which included every creek, upon the logwood, and all other their coasts in America. Rio Tinto (which the English call Black Water) is not many leagues distant from Cape Gracias a Dios, a promontory that advances in the sea at the Rincon, or corner of the Mosquito shore, about the fourteenth degree of northern latitude. The river Wallis is almost opposite to the island of Ratan, where the English had settled themselves during the last war; but which the court of London had, at the solicitation of that of Madrid, caused to be evacuated, after the peace in 1748; when those very settlers only removed from the island to the continent, and formed the establishment now subsisting at the river Wallis: and that lays, according to what was pointed out to me, between the fifteenth and sixteenth degree of northern latitude. The third, last, and most inconsiderable settlement, is upon the Laguna Azul, a lake not far distant from the bay of Ascension, which is in the neighbourhood of a Spanish town, called Salamanca de Bacalar, about the eighteenth northern degree.

The second point that slipped my notice, was, when M. Wall and I had been discussing the substance of the Memorial, presented by the court of France, in relation to the Spanish claims, his excellency solemnly protested to me, the Catholic king, upon finding how unacceptable that proposal was to England, had sent peremptory orders to the marquis Grimaldi, not to let the pretensions of this court in the least interfere with the progress of Mr. Stanley's and M. Bussy's negociations; and therefore to drop any farther mention of them, lest they might be reputed an impediment to the conclusion of a peace between England and France; which was the strongest proof his Catholic majesty could give of his sincere intentions, in wishing to have the disputes of Spain amicably adjusted with Great Britain. I could not avoid observing to M. Wall, the little real cordiality there was in the French professions towards this court, or sincerity in their declarations and offers to accommodate our unhappy differences with Spain; since every one was convinced, the most Christian king must desire to prevent our enjoying so advantageous a trade as that of logwood: at the same time, that the French interest was too well understood by their ministry, not to dread, above all things, the Spaniards being ever let into the smallest share of the bacallao trade: as it would so essentially affect their own extensive, as well as lucrative branch of commerce in that commodity, which it had been agreed in our *ultimatum*, to leave them in the possession of, according to the stipulations relative thereto, in the peace of Utrecht.

I am, &c. BRISTOL.

LETTER from the Earl of Bristol to the Earl of Egremont, (secret and confidential,) dated Madrid, Dec. 6, 1761. Received Jan. 9, 1762.

My lord; your lordship has acquainted me, in your secret and confidential letter, that his Majesty had been pleased to determine, neither to confine me in relation to the method of opening myself to general Wall, on the important subject of your most secret dispatch, nor to prescribe whether I should communicate the substance of it verbally, or trust the whole or any part thereof out of my hands; as it was imagined from the time I have had the

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honour of being employed at this court, I ought to be able to judge what kind of compliment, or degree of confidence, would best lead me to succeed in the delicate commission at present left to my management. I must desire to refer your lordship for all particulars to my most secret letter of this date; wherein you will see, that, so far from receiving that communication I so eagerly solicited, it has not been possible for me to obtain any solemn assurances of the innocence of the treaty in question, although I am persuaded in my own mind, there are no unfriendly intentions therein (to Great Britain) which assurances your lordship directed me not to reject, in case they were proposed, but to admit of them *ad referendum*, to be transmitted to my own court; provided, "they were given upon his Catholic majesty's royal word, signified in writing, either by the Spanish secretary of state to me, or by the conde de Fuentes to your lordship, and not otherwise."

In lieu whereof, I have only procured the copy of general Wall's dispatch to the conde de Fuentes: your lordship will there observe, that in consequence of my repeated instances, the Spanish minister has directed M. de Fuentes to give an answer to my notes, to the King's secretary of state, by word of mouth, or in writing if it was necessary: since I could not compass all I was directed to require, at least it will not, I hope, be thought, that I have been remiss in the performance of my duty, after your lordship recollects, the Spanish embassador had expressed his wishes to have the business conveyed through another channel, rather than by himself, that, notwithstanding such a reluctance in his excellency to enter into this affair, he receives orders from his court to explain the sentiments of Spain in writing. Would those sentiments had been more explicit, and more satisfactorily conformable to the purport of my instructions.

If your lordship has taken the trouble of looking over some of my letters to Mr. Pitt, you will have seen the motives I frequently had for delivering to the Spanish minister written notes of what passed when our meetings were long, and upon delicate or interesting subjects, which I chose doing in that manner for greater precision, besides having so great a certainty of the Catholic king's being minutely acquainted with every argument I had made use of to enforce the validity of our cause, at the same time that it was an assistance to general Wall's memory, which his excellency repeatedly told me he did not chuse to confide in, without some memorandums in writing.

The paper marked (A), is what I put into general Wall's hands, according to my former custom, which is an abstract of the most essential parts of your lordship's most secret letter, and a summary account of all I expatiated upon, more at large, in our several conferences. The two inclosures, distinguished by the letters B and C, are the copy and translation of M. Wall's private dispatch to the conde de Fuentes, which is a *precis* of all the Spanish secretary of state alledged, either to confute my reasonings, or to support his own assertions.

I could not deny myself the satisfaction of reading to general Wall, by far the greater part of your lordship's most secret dispatch; this mark of confidence I have frequently observed towards the Spanish minister, when I have been left at liberty with regard to the mode of communicating any of my orders, and, in the present conjuncture it would have been ill-timed in me to have withdrawn from his excellency that proof of my trust in him, more especially as your lordship had advised me most cautiously to avoid any mark of offensive diffidence: besides I thought it could only do honour to your lordship's sentiments and stile to point out to the Spanish secretary of state the conciliating directions which you had enjoined me to put in practice, whilst I was urging any matters, as you recommended their being done in the most polite and friendly terms, as well as my insinuating gently those arguments, which were suggested to me to advance. I am, &c. BRISTOL.

Translation of a PAPER delivered the 18th Nov. 1761. (A).

The King has learnt, with particular satisfaction, the justice of his Catholic majesty, in giving orders for the restitution of the ship the Speedwell; and his Majesty is equally sensible of the moderation with which the privateer, the King George, has been treated. The count de Fuentes having given a memorial, complaining of the behaviour of the said privateer, the most exact enquiries are to be immediately begun, and, as soon as the facts are proved, a suitable satisfaction, agreeable to our laws, will be given to the court of Spain.

Having communicated to the Secretary of State, in a dispatch of the month of September last (agreeably to the assur-

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ances I had then received) his Catholic majesty's intention to cultivate a good correspondence with the King, I have been expressly ordered to testify the real pleasure which such a declaration, of the sentiments of this court, has occasioned: and I must not omit to assure, that no order has been sent for augmenting the fortifications of Gibraltar, consequently they have only been working there on the usual repairs.

His Majesty having nothing more at heart than to maintain and strengthen the most cordial and the most sincere friendship with the Catholic king, does not doubt of meeting with the same dispositions as his on the part of Spain: for there is nothing more evident than the mutual advantage which must, at all times, result to the two kingdoms by such a reciprocity.

After this declaration, it is not surprising that the court of London desires and demands, of the Spanish ministers, a communication of the treaty lately concluded between their Catholic and most Christian majesties; or that they would impart the articles which may be thought relative now, or in future, directly, or less immediately, to the interests of Great Britain. These instances do not proceed from any disadvantageous suspicion of the assurances of friendship, so often repeated by Spain to the court of London: they only tend to obtain some explanation with regard to the language which the King's enemies have affected to hold; namely, that Spain was on the point of taking part in the present war, by joining France against England. Such are the reports which have made so rapid a progress in all Europe: and the King's honour is concerned in putting a stop to them, as far as the interests of his people require their being contradicted; without which, how can his Majesty persuade himself to enter into a negociation with Spain, for accommodating the differences which have unhappily subsisted, for so long a time, between the two courts? The Catholic king is informed of all the alliances and engagements of Great Britain; and it would be an unfriendly reserve, at this conjuncture, not to comply with giving his Majesty this satisfaction on the contents of a treaty so recently signed with a power actually at war with the King; and especially when France does not cease to give out, that the conditions of this new engagement tend towards hostilities which Spain will very soon manifest against the British nation.

This obstacle once removed, his Majesty is determined, without loss of time, to enter into an amicable discussion of the matters which make the subject of the disputes of the two crowns; not at all doubting but that they may be easily adjusted; and being convinced, that a reciprocal and extensive confidence will not fail to suggest expedients for saving the dignity and the honour of the two kings, and for adjusting, to the reciprocal satisfaction of their majesties, every thing that has till now retarded that solid and permanent harmony which has always been the object, the wishes, the solicitude, and the desires, of those who wish the essential advantages and the true glory of the two monarchies.

In order to prevent every perverse impression which the change that has just happened in the English ministry might occasion, it is necessary to declare, that the most perfect unanimity now reigns in the king's councils; and that it is resolved there to continue the war with all possible vigour: his Majesty, however, only wishing for the moment to put an end to the terrible misfortunes which are the inevitable consequences of it, as soon as he shall find his enemies disposed to make peace, on conditions which may correspond to the successes with which Providence has been pleased to bless the King's arms, and which shall, at the same time, give appearances of a solid and durable peace, after all the miseries which have been suffered during the course of these last years.

PAPER received 3 Dec. 1761. Translation (C).

Most excellent Sir; my lord Bristol delivered to me, some days ago, the memorial, whereof I send you a copy. In the first paragraph is seen the satisfaction of his court at the king's justice, in causing the English ship the Speedwell to be restored; and at the moderation with which the offence of the King George privateer had been chastised, to which there is nothing to reply, only, that his Majesty is glad that the ministry acknowledge the uprightness and moderation of his proceedings.

In the second paragraph my lord Bristol sets forth, that, having wrote in September to his court the intention he had been assured of by us, in which the king was, of cultivating a good correspondence with the King of Great Britain, he had

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been ordered to declare the real pleasure such a declaration, from us, had given. I do not remember having made it then in a more particular manner than at many other times; nor do I comprehend the motive for their making such a point of it: however, it is certain, that in the various occasions that have presented themselves, in the life-time of king Ferdinand (who is in heaven), as well as of the king our lord (whom God save), the Spanish ministers have repeated the wishes of their court to cultivate the best correspondence with that of London.

My lord adds, in the same paragraph, that he can ascertain, that no order has been transmitted for increasing the fortifications of Gibraltar; which does not surprise the king, as he has given no room for the least mistrust; nor would the contrary surprise him, the English being as much the masters to increase them, as his majesty is any one place of his own.

My lord Bristol continues, in another paragraph, to express, that there is nothing the King his master has so much at heart as to form a closer and more sincere friendship with the king, our lord; and that he does not doubt finding the same dispositions on the part of Spain; the mutual advantages that will accrue to both nations therefrom being evident: and all this is in order to come, by degrees, to what, after such a declaration, was not to surprise us; that his court should desire and ask of the Spanish ministers, the communication of the treaty lately concluded between their Catholic and most Christian majesties, or the articles that relate to England. Your excellency knows how easy it would be for the king to give a direct answer; but his own decorum prevents him from the consideration that this demand is made as a compulsive condition for commencing a negociation with Spain, about differences which are confessed to have subsisted so long. Whoever heard speak of commencing a negociation, would think that, hitherto, nothing had been negociated about our differences; and besides, would believe, that their considering them as worthy of negociating, was doing us a favour. It is a very singular method in that ministry of misunderstanding so many offices, memorials, and conferences, which have passed for these six years thereupon, and particularly since the king sent your excellency to that court, proving the incontestible grounds of our complaints and just cares, and repeating, that, without satisfying them, it is impossible to fix the good correspondence of the two monarchies, nor the friendship of the two monarchs, so deserving of each other's love. If all that has been declared by word of mouth, or in writing, the answers and replies that have intervened, the points that have been concluded upon, is not a negociation, I do not know what is called such.

My lord Bristol offers, that when the king our lord should declare himself upon the existence or non-existence of the supposed treaty, or upon the articles relating to the English, the King, his master, has determined to enter, without loss of time, into a friendly discussion of the points which occasion our differences; not doubting but that they may be accommodated, and expedients found out for saving the dignity and honour of the two sovereigns.

In his court they must consider only, as a mere trifle, what they seek after; since, in recompence, they only promise what we are already tired of practising. What greater discussion upon the points of our disputes can be made than that which has been in so long a negociation? What expedients can be fallen upon now to save the honour of the two kings, which, in arguments and disputes of six years, have not occurred? And if in London they are to be found, Spain is the creditor for her patience in the pursuit of her complaints, and for having seen the various successes of the war the English were carrying on, whilst she only proposed, without offering to impose conditions upon that account. The most noble expedient, and which does the greatest honour to kings, as well as to those who are not so, is, not to withhold the property of another unlawfully, but to restore, and even punish the usurpers, without minding (if it falls out so) from whom the injured person asks it.

My lord Bristol concludes with a paragraph entirely foreign to our business, declaring, that a perfect unanimity subsists in the councils of Great Britain, and that the King was resolved to continue the war with all possible vigour till he had reduced his enemies to a peace adequate to the successes of the English arms, and which might have the appearance of being a firm and lasting one. It is not directly our intention to answer thereto; but the two points which the English desire by the peace are contradicted evidently by what all the world has just seen. All impartial persons can decide, whether the terms of-

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fered by the French, and refused by the English, do not bespeak the advantages of the English arms; and their inadmission will be attributed by them to other views, which ought not to be indifferent to the other maritime powers, and proprietors of dominions beyond sea: and it must occasion surprise to them, that, if the court of London desires a peace that wears the appearances of being firm and lasting, it should pique itself upon that of Paris's insinuating, how necessary it would be to adjust, at the same time, our differences, to cut off all risk of its renewing the war in favour of us.

My lord Bristol then, by means of another memorial, asked if France had taken that step with the king's consent, in the same manner he now asks us, whether there is such a treaty or not with France? We answer frankly, Yes; proving the regularity of it: and with this motive we reply to the repeated expressions of that court, about desiring a good correspondence with ours, esteeming them as at all times, however, thinking it was necessary effects should have accompanied them; and as if such a memorial had never been given by us, forgetting it entirely, they present us another, with a new question, with the same general expressions, and the unexpected novelty of offering to commence a negociation so long discussed, and so well digested, that it has been reduced, during your excellency's embassy, to the last Yes, or last No.

Your excellency, being thoroughly informed of every thing I have set forth, may tell it, or give it in writing, if it is necessary to that ministry, in order that, upon no account, it may charge us with leaving my lord Bristol's memorial unanswered, and that it may acknowledge the impropriety there is, that the king should satisfy their curiosity at every turn, whilst no satisfaction is given to his just demands.

Extract of a LETTER from the Earl of Bristol to the Earl of Egremont, dated Madrid, Dec. 7, 9, and 11, 1761. Received Jan. 9, 1762.

The messenger Potter arrived here the 5th instant at night, whilst my dispatches, dated the 6th of this month, together with their voluminous inclosures, were transcribing fair, in the expectation of the whole being ready to be sent away from hence by Ardouin directly; but the very great importance of your lordship's letters of the 19th past, determined me to suspend the departure of a messenger, till I had communicated their contents to general Wall, upon whose answer depended a matter of the highest consequence to both crowns.

M. Wall was then confined to his room, by an accident which had happened to his foot. Upon my writing a note to his excellency the 6th, early in the morning, acquainting him with the arrival of a messenger from England, he appointed me to go to him at any time after the noon of that day. As soon as the Catholic king's court was over, I went to the Spanish minister's, which was about one o'clock. I began directly, by telling his excellency, that the great surprize and sorrow he must have observed in me at the Escurial, after that memorable conversation we had together, several particulars of which I reminded him of, had occasioned equal astonishment and concern in England; and, for that reason, fresh instructions had been transmitted to me, without even waiting for my answer to your lordship's dispatches of the 28th of October. I did not attempt to disguise the alarm his excellency's discourse had raised in my court, which, as it was my duty, I had related immediately after it had been held to me, as nearly as I could recollect, in the phrases he had made use of, saying, that such an unprovoked transition in his language, so diametrically opposite to the pleasing assurances I had received at St. Ildephonso, of the Catholic king's resolution to cultivate the closest correspondence with his Majesty, had filled the English ministry with amaze; and more particularly so, as the count of Fuentes had lately called your lordship aside, to acquaint you, that he had given strong assurances of the friendly disposition of the king his master, and of his steady purpose to maintain the strictest amity with Great Britain, at an audience to which his excellency had been admitted to deliver a letter from the Catholic king to his Majesty.

Yet the King, religiously observant of all his solemn declarations, and equally attentive to his own dignity, as well as to the interests of his subjects, was determined coolly and firmly to acquit himself of those indispensable duties.

I then went through the several topics contained in your lordship's letter, by expatiating very amply on the injustice that Spain did to the purity of the King's in-

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tentions; since his Majesty had been particularly delicate in causing such military plans to be concerted as might avoid hostilities towards those objects that could give the least umbrage to the Catholic king. I dwelt upon the notoriety there was, that every thing of the royal councils, which could tend towards the interruption of a friendly intelligence between our courts (which his Majesty was so solicitous to maintain) had also been avoided. Then I proceeded to renew my former enquiries about the treaty lately concluded between the courts of Madrid and Versailles; and finally, to ask a categorical answer relative to Spain's intention with regard to Great Britain, in this critical conjuncture, which the King found himself under the disagreeable necessity of demanding; but I added, immediately after, that I was certain, and would venture to declare, that there was nothing could more essentially contribute to his Majesty's real satisfaction, than my being able to procure such an answer from hence as might contribute to the continuation of that amicable intercourse, which it could not be more the interests of both courts to uphold, than it was the King's sincere desire to cultivate; before I discontinued, I took particular care to be explicit with regard to his Majesty's sentiments, which were to be only attributed to the rectitude of his royal mind: and the declaration I made of the King's moderation was accompanied with the fullest assurances that could be given, to prevent any false or injurious interpretation, construing what I had advanced, concerning the King's desire of maintaining peace with Spain (provided that desire was reciprocal on his Catholic majesty's part) to proceed from any timidity or apprehension on the King's side.

It was not possible to listen with a more obliging attention, than M. Wall did, to all I have just mentioned. He never interrupted me, but answered me friendly, when I appealed to him upon any point. Your lordship will, no doubt, observe, how much I have here waved touching upon any subject that could be laid hold of as offensive, or that might even collaterally tend to irritate the Spanish minister, according to what was prescribed to me; which was, to avoid mixing any thing in my conversation, which could have a tendency to indispose general Wall. Indeed I must do his excellency the justice to say, there never appeared the smallest degree of warmth, or the least inclination towards any harshness, during our whole conference. He reasoned candidly with me, and minutely; he said, the Spanish embassadors had orders to make the professions of the Catholic king's friendship towards his Majesty, which he had accompanied with the letter he presented: he owned how cautious we had been, to avoid attacking those possessions belonging to our enemies, which had any connections with the Spanish territory; and agreed with me, concerning the publicity of what had passed in his Majesty's councils, upon the change of the English ministry; not forgetting to mention what had given rise to the late resignation of the seals. M. Wall then said, the copy he had delivered to me, of his own dispatch, to the count of Fuentes, was the only answer he could give to my enquiries about the treaty; that, as to the intention of Spain, with regard to Great Britain, which I then pressed to be informed of, he added, I must be sensible it was not in his power to give an immediate answer, from not being sufficiently authorised to do it, but promised that he would acquaint his Catholic majesty with my fresh solicitations, and would not fail communicating, faithfully, all I had expressed, concerning the King's sentiments and disposition.

As I had taken some notes (from which I spoke) that I might omit nothing I had determined to mention; the Spanish secretary of state asked me, whether I would consent to his transcribing them, for greater accuracy, when he was to impart to his Catholic majesty the very important and delicate conference we had had together; I directly gave his excellency a copy of the paper herein inclosed, marked (A) which he promised should be literally translated into Spanish, before it was presented to the king of Spain.

You will, perhaps, my lord, be surprised to find, I have, in this visit, only dwelt in general terms, concerning the intention of Spain, with regard to England: I beg of you to suspend forming any judgment about my conduct therein, till I have explained my motive for acting in that manner. I perceived general Wall's tone to be of so conciliating a nature; he expressed his wishes so strongly, that some method might be found out for an amicable adjustment of our differences; and was so far from dropping the least word, that could make me imagine Spain intended to act hostilely against us, that I began to

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flatter myself, I might obtain the categorical answer I was ordered to demand, without the Spanish minister's suspecting my ultimate orders. When I was going out of his room, he took me by the hand, and said, with a smile, he hoped; but there he stopped. I asked him what he hoped, that I might also hope, and that all might concur in the same hopes: but his excellency only then bowed, and took his leave of me.

Your lordship will, no doubt, have remarked, that, from the time of Potter's departure with my dispatches of the 2d past, the stile of the Spanish minister has been softening gradually. What had occasioned the great fermentation during that period at this court, the effects of which, I felt from general Wall's animated discourse at the Escurial, was, the notice having, about that time, reached the Catholic king, that the change which had happened in the English administration, was relative to measures proposed to be taken against this country: hence arose that sudden wrath and passion, which, for a short time, affected the whole Spanish court; as it was thought most extraordinary here, that the declaring war against the Catholic king, should ever have been moved in his Majesty's councils, since the Spaniards have always looked upon themselves as the aggrieved party; and, of course, never could imagine that the English would be the first to begin a war with them.

Dec. 9. I received, late in the evening of the 7th, a note from M. Wall, desiring me to return to him on the next morning, the 8th; which I punctually complied with. His excellency said, he had not been able to stir out; but, having received his Catholic majesty's commands in relation to our conference on the 6th, he would not delay communicating them to me. They consisted in the king of Spain's being sensible of all the assurances of friendship and marks of attention, which had been conveyed through my means: but I was to be informed, that, with regard to the treaty, and the intentions of Spain, M. Wall's dispatch to the count of Fuentes (copy of which had been delivered to me) was the only answer the Catholic king judged it expedient to give. I pressed the Spanish minister to open himself more fully upon this most important subject; as I thought it impossible so concise an answer could be given to all I had urged to his excellency.

Unfortunately, general Wall had not been able to see his Catholic majesty; and, therefore, having only wrote, and received a written answer, that accounted, in some measure, for its being so laconic.

I then reminded the Spanish minister of the pressing endeavours I had employed at our last meeting, to obtain a satisfactory answer; alledging, that, as I had not been able to obtain a communication of the treaty, nor the alternative which I had proposed, I was now necessitated to come to a more particular explanation of what I had mentioned in general concerning Spain's intention with regard to Great Britain; therefore I was commanded to declare to his excellency, that my court expected to have a categorical answer to the following questions: whether the Catholic king intended to join the French, our enemies, or purposed acting hostilely? Or would, in any manner, depart from his neutrality? Adding, that Spain's refusing to comply with giving this satisfaction, would be deemed an aggression on the part of the court of Madrid, and a declaration of war.

I cannot describe the surprise M. Wall expressed at hearing this. He only brought out these words; What is to follow? You have then orders to withdraw from hence. I told him, he must easily imagine what would ensue, if Spain did not disavow any intentions to take part with our declared enemies; for I was ordered to signify, that such a refusal would be looked upon by his Majesty in no other light than as an absolute declaration of war.

He told me, the categorical answer I was ordered to require, was such an attack upon the Catholic king's dignity, that it was impossible for him to give any advice to his sovereign upon so delicate a subject, which dignity could not be imagined to be less dear to kings than a common decorum was to subjects: he afterwards mentioned writing to his Catholic majesty what had passed between us, and conveying the substance of my instructions in that manner; as he was not able to go himself, and relate them verbally. You may be assured, my lord, I remonstrated strongly against his staying in his chair at home, and his not going in person to offer his advice, and to declare his opinion, in words, when it must be so much wanted. I entreated his excellency to reflect, that the lives of thousands, the ruin of thousands of thousands, and the dis-

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tresses of whole nations, were now depending upon the final resolution of the Spanish councils: for as I had conferred with no other minister than himself, where were those, who could be supposed to be able to make a faithful report, or lay the proper stress, and repeat all the arguments, I had been ordered to employ, to shew the expediency and the necessity of such an answer as I had required, if any such persons could be found willing to undertake it? I urged to the Spanish minister, the absolute necessity of his being carried out, at all events, to the Buen Retiro, and there to set forth the fatal consequences that must inevitably attend Spain's not giving me a precise answer: besides, I enforced to M. Wall, all that the world would infer, whatever his friends must think, or his enemies would say, upon his staying in his own house, and only writing to his Catholic majesty, where the fate of so many countries were involved in the decision of the present affair: I recommended to him, for the sake of humanity in general, not to let any rash or precipitated measure be taken: but, after duly weighing the infinite importance of these questions, to let me receive such answers, as might enable the two crowns to continue a mutual friendly intercourse, unallayed by suspicions, and totally clear of all doubts. General Wall, for greater precision, desired me to put into writing what I was ordered to demand: I took his pen, and wrote down the sentences I inclose a copy of, indorsed (B).

December 11, 1761. As I knew general Wall was not able to stir from off his chair, till yesterday the 10th, that he went to the palace of the Buen Retiro, and held the accustomed despacho, in the presence of his Catholic majesty; it was in vain for me to press for an answer, which was not in his power to give, without receiving the king of Spain's commands.

At eleven o'clock last night, I received two letters from his excellency; those marked 1 and 2, are the copy and translation of the office; that which is number 3, is the copy of a private note, entirely in general Wall's own hand, to which I sent an answer immediately, copy whereof is distinguished by the number 4.

It is unnecessary for me to dwell upon the decision of this most important affair; besides, that I shall be able, at my return to England, to relate minutely to your lordship, many circumstances too tedious to be inserted in a letter.

M. Wall, the last time I saw him, said so much concerning the Catholic king's very particular partiality towards me, that I thought it could not be amiss in me, to take the last opportunity, which was likely to present itself, of testifying the impression his Catholic majesty's sentiments about me, had made upon my mind.

Notwithstanding I have been, and still continue indisposed, I propose setting out as soon as it is possible; but those who are unacquainted with Spain, can have no idea of the difficulties attending a journey from hence.

I beg your lordship to believe, that I have exerted my utmost efforts for his Majesty's service, and the welfare of my country, since I have had the honour of being employed here. Nothing is left for me now to add, but to lament my sincere endeavours to preserve a union between the two crowns having been so unsuccessful. God send prosperity to the King's righteous cause; and may Great Britain, in the course of the ensuing war, prove, that the combined forces of Spain and France are not sufficient to eclipse her glory, or to cope with her strength. I am, &c. BRISTOL.

Copy of NOTES given to general Wall, at our first conference, Sunday the 6th December, 1761. (A.)

Count of Fuentes accompanied the Catholic king's letter to his Majesty, with the strongest professions of friendship from Spain.

The King's particular delicacy, in concerting military plans, to avoid hostilities towards objects that could give umbrage to his Catholic majesty.

How notorious it was, that every thing in the King's councils, which could tend to break through a good understanding between our courts (which his Majesty is so anxious to preserve) had been avoided.

An answer concerning the treaty; as well as to know the intention of Spain, with regard to Great Britain.

Nothing could more essentially give a real satisfaction to his Majesty, than my procuring such an answer as might contribute to the continuation of that friendly intercourse, which it is not more the interest of both crowns to maintain, than it is the King's sincere desire to cultivate.

Copy of NOTES wrote down in general Wall's closet, and given by me to his

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Excellency, at our second conference, Tuesday the 8th of Dec. 1761. (B.)

Whether the court of Madrid intends to join the French, our enemies, to act hostilely against Great Britain, or to depart in any manner from its neutrality?

A categorical answer is expected to those questions, otherwise a refusal to comply will be looked upon as an aggression on the part of Spain, and a declaration of war.

General Wall, B. Retiro, 10th Dec. 1761. Translation (2.)

Most Excellent Lord;

My lord, your excellency having expressed to me, the day before yesterday, and being even pleased to put in writing, that you had orders to ask a positive and categorical answer to the question, If Spain thought of joining herself with France against England? Declaring, at the same time, that you should look upon the refusal as a declaration of war; and that you would, in consequence, leave this court. The spirit of haughtiness and of discord, which dictated this inconsiderate step, and which, for the misfortune of mankind, still reigns so much in the British government, is what made, in the same instant, the declaration of war, and attacked the king's dignity. Your excellency may think of retiring when, and in the manner, is convenient to you; which is the only answer that, without detaining you, his majesty has ordered me to give you. The indisposition your excellency saw me in, scarce permitted me to go to receive the king's commands.

May your excellency carry away with you all the happiness which corresponds to your personal qualities, and the constant remembrance of the sincere affection with which I am, praying God for the long preservation of your life, most excellent lord, &c. Don Ricardo Wall.

General Wall, Madrid, 10th Dec. 1761. (3). Translation.

My lord; my uneasiness, ever since the moment that your excellency communicated to me the orders which you have received from your court, has not permitted me to delay, any longer, your excellency's instances, full of attention; and I have been (notwithstanding my indisposition) to give an account to the king my master, of the last questions which you have been ordered to put to my court.

Your excellency will see, by the inclosed letter, what are his majesty's sentiments; you know mine for your person. I hope to have the honour of seeing you, and confirming to you again, by word of mouth, the esteem and respect with which I am perfectly, my lord, &c.

Wall.

To General Wall, Madrid, Dec. 10, 1761. Eleven o'clock at night. (4). Translation.

Sir; I have just received your excellency's letter, dated to-day, with that which was therewith inclosed. No one can be more sensible than I am of the sentiments with which his Catholic majesty honours me. Receive, Sir, my acknowledgment for those which you express for me. I desire your excellency to cause the Catholic king's passports to be prepared for me, in order that I may take the route of Portugal, in consequence of the instructions which I have received from my court to retire from hence. I have the honour to be, &c. Bristol.

Letter from the Earl of Bristol to the Earl of Egremont, dated Madrid, Dec. 11, 1761. Received Jan. 9, 1762. Most Secret.

My lord; having answered, in my public letter of this date, so exactly to all that is contained in your lordship's most secret one, I only write these few words to acknowledge it, and to mention, that if I had only signified to the Spanish minister the King's commands, (that a peremptory refusal to give satisfaction, in relation to the categorical answer; or that the not disavowing any intentions to take part with our declared enemies in the present war, would be looked upon by his Majesty as an aggression on the part of Spain, and an absolute declaration of war) without, at least, not denying what would be the consequence of Spain's not giving the answer required: I mean my withdrawing myself from hence; I had reason to apprehend, that, had I waited to make known that resolution till after general Wall had seen his Catholic majesty, I might have received an order to go away from hence; whereas now it is known I had been first commanded by my own court to take that step. I am, &c.

Bristol.

Letter from the Earl of Bristol to the Earl of Egremont, dated Madrid,

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Dec. 11, 1761. Separate and Secret, Received Jan. 9, 1762.

My lord; in obedience to the King's commands, I took the earliest opportunity, after Potter's arrival, of writing to sir Charles Saunders, to major-general Parslow at Gibraltar, and to all his majesty's consuls in Spain, as well as to Mr. Hay, that he might give the same notice to those who are in Portugal, in order that every one might put himself, and his majesty's trading subjects, properly on their guard, on account of the critical situation in which our court then stood with regard to Spain.

I have in vain asked leave to dispatch a messenger for Lisbon to obtain passports from the court of Portugal for myself, as was practised by sir Benjamin Keene for his journey, when he left Madrid in the year 1739. The order for post horses has been refused me, otherwise I had prepared the several letters his majesty had commanded me to write to commodore Keppel, to sir Charles Saunders, and major-general Parslow. My house is surrounded with spies: I am so much watched myself, and such strict orders are given to stop every one going from Madrid, that even if a person would consent to go on this errand, I could not trust him; yet I hope a method I have caused to be taken will convey the intelligence to Gibraltar, and from thence it may soon reach sir Charles Saunders.

It is not in my power, nor could it be for the service of his Majesty, for me to set out so soon as I wish to do, in obedience to the King's orders; I am, and have been for some time, so much out of order with a return of my former pains, that, were I to begin my journey immediately, I should be confined in my bed, in some village near Madrid, without a possibility of continuing my route; therefore, as my constitution has already suffered so much by this climate, I hope the King's clemency will pardon my not endangering it. As soon as it is possible I will not delay my departure, for which I am so very impatient.

I shall not venture sending away this large packet of my several different dated dispatches till I am out of the Spanish dominions, lest any accident should happen to the bearer of them: but I shall directly cause them to be sealed up, so that they will be ready to be forwarded at all times. I am, &c. BRISTOL.

LETTER from the Earl of Bristol to the Earl of Egremont, dated Elvas, in Portugal, Dec. 26, 1761. Received Jan. 9, 1762.

My lord; I left Madrid as soon as it was possible for me to get together what was necessary for a journey in Spain, which is so unlike every other country in Europe for travelling. I received general Wall's final answer of the 10th instant, at eleven o'clock at night; and I set out in the morning of the 17th with a fever upon me, which I had had at least ten days; but as the pains in my stomach had diminished, I determined to begin my journey, let what would be the consequence of it.

The Spanish minister refused letting me have an order for post horses till I reached Badajox, the last town in Spain, although I asked for it to send a messenger to Lisbon for passports from his most faithful majesty, that I might not be detained upon the frontiers of Portugal.

I now deliver to the messenger, Ardouin, those dispatches I was preparing to send your lordship, even before the arrival of Potter, as well as the letters which contain the full account of the present rupture between Great Britain and Spain; and I shall write to Mr. Hay to cause a packet boat to sail directly with the messenger as soon as he reaches Lisbon. I am, &c. BRISTOL.

Supplies granted for the Year 1762.] The following Supplies were granted during this session for the service of the year 1762.

NOVEMBER 21.	£.	s.	d.
That 70,000 men be employed for the sea service, for 1762, including 19,061 marines.			
That a sum, not exceeding 4*l.* per man, per month, be allowed for maintaining them for 13 months, including the ordnance for sea service	3,640,000	0	0

NOVEMBER 26.

That a number of land forces, including those in Germany, and on an expedition, and 4,008 invalids, amounting to 67,676 effective men, commission and non-commission officers included, be employed for the service of 1762.

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That, for defraying the charge of the said number of land forces for 1762, there be granted to his Majesty	1,629,520	18	1
For maintaining his Majesty's forces and garrisons in the Plantations, Gibraltar, Guadaloupe, Africa, and the East-Indies, and for provisions for the garrisons in Nova Scotia, Newfoundland, Gibraltar, Providence, Quebec, Guadaloupe, Senegal, and Goree, for 1762	873,780	18	7
For defraying the charge of four regiments of foot, on the Irish establishment, serving in North America, for 1762	23,284	0	6
For the charge of the office of ordnance, for land service, for 1762	343,754	17	11
For defraying the charge of an augmentation to his Majesty's forces, consisting of 9,370 men, from 25th Dec. 1761, to 24th Dec. 1762	163,711	12	6
For the pay of the general, and general staff officers, and officers of the hospitals, for the land forces, for 1762	72,896	14	2
For defraying the extraordinary expence of services performed, by the office of ordnance, for land service, and not provided for by parliament, in 1761	299,161	4	4
	3,405,910	6	1

NOVEMBER 28.

For the ordinary of the navy, including half-pay to sea officers, for 1762	272,226	9	1
For completing the chapel, for the use of the hospital for sick and wounded seamen, at Haslar, near Gosport, and such other works, as may be afterwards found proper to be performed before the whole work is put out of hand	1,000	0	0
For completing the works of the hospital for sick and wounded seamen, building near Plymouth	6,000	0	0
Towards the buildings, rebuildings, and repairs, of his Majesty's ships, for 1762	200,000	0	0
Towards paying off and discharging the debt of the navy	1,000,000	0	0
	1,479,226	9	1

DECEMBER 7.

For the charge of transport service, between the 1st of October, 1760, and the 30th of September, 1761, including the expence of victualling his Majesty's land forces within the said time	835,025	3	8
To enable his Majesty to pay off, and discharge, the exchequer bills, made out by virtue of an act of last session, and charged upon the first aids, or supplies to be granted, in this session of parliament	1,500,000	0	0
	2,335,025	3	8

DECEMBER 10.

For defraying the charge of 39,773 men of the troops of Hanover, Wolfenbuttle, Saxe-Gotha, and count of Buckeburg, together with that of general and staff-officers, actually employed against the common enemy, in concert with the king of Prussia, from 25 Dec. 1761, to 24 Dec. 1762, both inclusive, to be issued in advance every two months, in like manner as the pay of the Hessian forces, now in the service of Great Britain; the said body of troops to be mustered by an English commissary, and the effective state thereof to be ascertained by the signature of the commander in chief of the said forces	465,638	16	2½
For defraying the charge of 2,120 horse, and 9,900 foot, together with the general and staff-officers, the officers of the hospital, and officers and others, belonging to the train of artillery, the troops of the landgrave of Hesse-Cassel, in the pay of Great Britain, for 365 days, from 25 Dec. 1761, to 24 Dec. 1762, both inclusive; together with the subsidy for the said time, pursuant to treaty	268,360	8	8
For defraying the charge of an additional corps of 1,576 horse, and 8,808 foot, together with the general and staff-officers, the officers of the hospital, and officers and others belonging to the train of artillery, the troops of the landgrave of Hesse-Cassel, in the pay of Great Britain, for 365 days, from 1 Jan. 1762, to 31 Dec. following, both inclusive pursuant to treaty	147,071	5	2
For defraying the charge of 1,444 cavalry, and 2,330 infantry, the troops of the reigning duke of Brunswick, in the pay of Great Britain, for 365 days, from 25 Dec. 1761, to 24 Dec. 1762, both inclusive, together with the subsidy for the said time, pursuant to treaties	68,008	9	1
For defraying the charge of five battalions, serving with his Majesty's army in Germany, each battalion consisting of one troop of 101 men, and four companies of foot, of 125 men each, with a corps of artillery, for 365 days, from 25 Dec. 1761, to 24 Dec. 1762, both inclusive	25,504	6	8

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For defraying the charge of the embodied militia, of the several counties in South Britain, and of the fensible men of Argyleshire, and of lord Sutherland's battalion of Highlanders, in North Britain, from 25 Dec. 1761, to 24 Dec. 1762, both inclusive, being 365 days	443,952	10	10
For defraying the charge of clothing for the embodied militia, for 1762, upon account	60,706	4	1
To enable his Majesty to discharge the like sum, raised in pursuance of an act of last session, and charged upon the first aids, or supplies, to be granted in this session of parliament	1,000,000	0	0
Towards defraying the charges of forage, bread, bread-waggons, train of artillery, and of provisions, wood, straw, &c. and other extraordinary expences and contingencies of his Majesty's combined army, under the command of prince Ferdinand	1,000,000	0	0
	3,479,242	0	8½

DECEMBER 14.

For defraying the extraordinary expences of his Majesty's land-forces and other services incurred, to 24th Nov. 1761, and not provided for by parliament	1,353,662	4	1

DECEMBER 22.

For defraying the charge for allowances to the several officers, and private gentlemen, of the two troops of horse-guards, and regiment of horse, reduced, and to the super-annuated gentlemen of the four troops of horse-guards, for 1762	2,952	13	4
For the paying of pensions to the widows of such reduced officers of his Majesty's land forces and marines, as died upon the establishment of half-pay, in Great Britain, and who were married to them before the 25th Dec. 1716, for 1762	1,838	0	0
Upon account of the reduced officers of his Majesty's land-forces and marines, for 1762	34,383	0	0
To be applied towards the improving, widening, and enlarging, the passage over and through London bridge	15,000	0	0
	541,173	13	4

JANUARY 26, 1762.

To enable his Majesty to give a proper compensation to the respective provinces in North America, for the expences incurred by them, in the levying, clothing, and pay, of the troops raised by the same, according as the active vigour, and strenuous efforts, of the respective provinces, shall be thought, by his Majesty, to merit, upon account	133,333	6	8
To be paid to the East India company, towards enabling them to defray the expence of a military force in their settlements, to be maintained by them, in lieu of the battalion commanded by general Adlercron withdrawn from thence, and now returned to Ireland	20,000	0	0
For out-pensioners of Chelsea hospital, for 1762, upon account	13,749	10	5
For maintaining and supporting the civil establishment of Nova Scotia, for 1762, upon account	5,684	1	10
For defraying the charge of the civil establishment of Georgia, and other incidental expences attending the same, from 24th June, 1761, to 24th June, 1762, upon account	4,057	10	0
To be employed in maintaining and supporting the fort of Annamaboo, and the other British forts and settlements upon the coast of Africa	13,000	0	0
To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1761, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund, by an act 31 Geo. 2, for paying annuities, at the Bank of England, in respect of five millions, borrowed towards the supply for 1758	52,393	16	9½
To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1761, of the several duties on malt, granted by an act 33 Geo. 2, to answer annuities, after the rate of 4*l.* per cent. charged thereupon	10,540	0	0
To replace to the sinking fund, the like sum paid out of the same, to make good the deficiency, on the 5th July, 1761, of the additional duty on strong beer and ale, to answer and pay the several annuities, of 3*l.* per cent. and 1*l.* 2*s.* 6*d.* per cent. on 11,400,000*l.* part of 12 millions bor-			

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rowed, towards the supply granted by an act of 1 Geo. 3, for 1761	103,906	0	0
	356.664	5	8¼

JANUARY 28.

For defraying the extraordinary expences of his Majesty's land-forces, and other services incurred, from 24th Nov. 1761, to 24th Dec. following, and not provided for by parliament	958,384	0	10

FEBRUARY 1.

Towards enabling the governors and guardians of the Foundling hospital, to maintain and educate such children as were received thereinto, on or before the 25th March, 1760, from 31st Dec. 1761, exclusive, to 31st Dec. 1762, inclusive; and that the said sum be issued and paid, for the said use, without fee or reward, or any deduction whatsoever	41,752	10	0

MARCH 23.

Towards enabling the trustees of the British Museum to carry on the execution of the trust reposed in them by parliament.....	2,000	0	0
To be applied towards new paving the squares, streets, lanes, and allies, of the city and liberty of Westminster, the parishes of St. Mary-le-bone, St. Giles in the fields, St. George the Martyr, St. George, Bloomsbury, that part of the parish of St. Andrew's, Holborn, which lies in the county of Middlesex, the several liberties of the Rolls and Savoy, and that part of the duchy of Lancaster, which lies in the county of Middlesex.....	5,000	0	0
	7,000	0	0

MARCH 26.

Towards defraying the charge of the pay of the militia of England, when unembodied, and of the clothing of the part of the said militia, now unembodied, for one year, beginning 25th March, 1762, upon account	20,000	0	0
Towards enabling the commissioners appointed by an act passed 33 Geo. 2, for repairing and widening the roads from Deanburn-bridge, through Greenlaw, and part of the Jedburgh road, by Lauder, in Berwickshire, to Cornhill, in Durham county, and for building a bridge over the Tweed, near Coldstream, to build the said bridge, and to defray such other expences as may be found necessary in relation thereto	4,000	0	0
	24,000	0	0

APRIL 1.

Towards assisting his Majesty to grant a reasonable succour, in money, to the landgrave of Hesse Cassel, pursuant to treaty, upon account	50,000	0	0
To make good the deficiency of the grants, for 1761	112,613	5	5½
	162,613	5	5½

MAY 13.

To enable his Majesty to defray any extraordinary expences of the war, incurred, or to be incurred, for the service of 1762; and to assist the kingdom of Portugal, an ancient and natural ally of his Majesty's crown, and to take all such measures as may be necessary to disappoint, or defeat, any enterprizes or designs of his enemies, against his Majesty, or his allies, and as the exigency of affairs may require, upon account.....	1,000,000	0	0
To make good the like sum, issued, pursuant to address of this House, by his Majesty, to Jeremiah Dyson, esq. towards defraying the expence of printing the Journals of this House, from the beginning of the 9th parliament of Great Britain, to the end of the last session of parliament, and also towards defraying the expence of making, and printing, indexes to the 2d, 3rd, 4th, 5th, 6th, and 7th volumes, of the said Journals, which have been already printed	1,500	0	0
	1,001,500	0	0

Total of the Supplies granted this session.....	£.18,299,153	18	11½

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*Debate in the Lords on a Resolution against carrying on the War in Germany.**] February 5. The House, according to order, proceeded to take into consideration his Majesty's Speech from the throne at the opening of this session, and also his Majesty's Speech from the throne on Tuesday the 19th of January last. And the same being read by the clerk:

The Duke of Bedford moved, "To resolve, that it is the opinion of this House, that the war at present carried on

* The following Notes of this Debate are from the Original, in the hand-writing of the Earl of Hardwicke.

Duke of *Bedford*. The German war, unnecessary and unjustifiable at first, is become much more so since the Spanish war; which has no connection with Germany.

A continental war never proper for England, unless attended with a grand alliance.

Now we are in a war without allies—The king of Prussia not so in effect to us—He not at war with France.

England now engaged for the cause of Hanover—Hanover and Hesse destroyed and wasted by it.

Submission to a superior enemy, much more eligible than an infructuous defence with an inferior force.

Success can be of no service to you. Bonfires and illuminations for successes of no kind of utility—Cannot conduce to a peace.

Obj. That this is a war of diversion.

Ans. We have a much better diversion than that—a superiority at sea.

France does not mean to crush the king of Prussia.

These arguments all strengthened by the state of your finances—Debt encreased 70 millions—Under such a load, measures that might otherwise be prudent and right, become destructive.

It may be retrievable, if you stop now, but if you go on longer, irretrievable.

I do in my conscience think you cannot carry on the war in Germany—There is a more fatal want than that of money, a want of men.

I could not sit still and see a measure proposed, which I think destructive to my country—and for which I may be reproached by my posterity.

Obj. The event of the Czarina's death.

Ans. Of no consequence to the argument of the German war.

Suppose it was possible to make a grand alliance, Russia alone would not be a sufficient ally—A revolution might happen there, as it did against the young Czar.

Obj. That the part the republic of Holland may take will be affected by withdrawing your troops.

Ans. Not at all. Holland not of sufficient weight in the scale.

The well-affected party in Holland is a very small one—Amsterdam frenchified and bribed.

Our army so inferior to the French army, that it cannot defend Holland and Hanover and Brunswick too.

France will not compel Holland to join the war, for the sake of having the benefit of her carrying their trade.

I take this up now, that the withdrawing your troops may be practicable. It is now, but it will not be so after the armies take the field.

What measure afterwards? That should be left to the wisdom of the king and his council—Unconstitutional now to enter on that. Motion, That, &c.

Lord *Bute, contrà*. Many things more proper to be felt than declared—Was I to study my own security, I should perhaps shelter myself under such a resolution. I will not procure safety to myself at the expence of my country—This motion not only improper, but highly dangerous—Even so to enter into it.

I shall content myself with some general observations—The undoubted privilege of this House to offer advice to the throne—Advice upon particular measures rarely offered, unless some fault is found with the administration—Hitherto they have not deserved it—This cannot be judged of, without seeing all the correspondence—That cannot be laid before you without the utmost danger.

The various nations of Europe, stunned with this league of Bourbon, have not yet had time to convey their sentiments to us.—The way is now open to an improvement of our circumstances—Division now dangerous—Calling away the troops now would be attended with disgrace, infamy and destruction. Let us lessen our expences, and in due time bring the war within a proper compass.—But this is not now the time.

Duke of *Bedford*. A few observations.

Lord *Temple*. The King's name not to be introduced into debates here.

Lord *Denbigh, contrà*. This motion irregular and unparliamentary.

Lord *Wiccomb, pro*. Public debts—If you apply the fund appropriated to pay the interest of the public debt, to the current services—

Lord *Talbot, pro*.

Lord *Pomfret, pro*.

Lord *Melcombe, con*.

Lord *Temple*. Congratulates the House, that this question has not been agitated till after all these victories and acquisitions.—Takes it for granted, that his grace has communicated all this to all the servants of the crown.—Notwithstanding my former opinions, if I was convinced against the German war, I should very readily vote against it—In many respects a new æra, the king of Prussia being so reduced—It is from the totality of the measure that the success has been owing—If these troops

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in Germany is necessarily attended with a great and enormous expense; and, that notwithstanding all the efforts that can possibly be made, there seems no probability the army there in the pay of Great Britain, so much inferior to that of France, can be put into such a situation as to effectuate any good purpose whatsoever; and that the bringing the British troops home from Germany would enable his Majesty more effectually to carry on with vigour the war against the united forces of France and Spain, give strength and security to Great Britain and Ireland, support public credit, and, by easing the nation of a load of expence, be the likeliest means, under the blessing of God, to procure a safe and honourable peace."

Which being objected to; and a question being stated thereupon; after debate, the previous question was put, "Whether the said question shall be now put?" It was resolved in the negative.

Protest against rejecting the said Resolution.] Thereupon the following Protest was entered:

"Dissentient.

"1. Because, the main question being so true in every particular, which was assented to by most of the lords who spoke in this debate, and no arguments being alleged that it was unconstitutional, the previous question should not, in the present case, have been insisted on, as thereby lords were debarred from laying before the throne their sense on a matter of this importance.

"2. Because, in the debate, there was no shadow of argument used to shew the impropriety of this question being brought before the House at this time, or that it was prematurely undertaken by the lord who moved it: on the contrary, it was proved, by irrefragable arguments, that if the measure was right to be done, no time should be lost in bringing the British forces home during their winter quarters, which was the only season when it could be done with safety, and without any possible impediment from the enemy.

"3. The present situation of the war, by the additional weight of the crown of Spain being thrown into the scale against us, doth undoubtedly require, at this very critical time, the utmost frugality, towards easing the nation from any unnecessary expence: and as the present war in Germany is indisputably carried on at a great and enormous expence, and, in the general conception of mankind, without any possibility of any good being reaped from it, it seems the undoubted right of every lord of this House to submit to parliament his opinion against a longer continuance of such measures as have already proved so detrimental to the public, by involving this nation in an additional debt of near six millions yearly, without serving any one British purpose, or even supporting with efficacy those countries, for whose preservation it has been pretended these immense supplies have been granted.

"4. A continental war, carried on in Germany without allies, and at the sole expence of Great Britain, whilst this nation is involved in a war with the two most considerable maritime powers of Europe, cannot be esteemed a system of true policy; as France, let the success against her arms be ever so great, is not vulnerable from that quarter; and Spain, on account of her distance, would doubtless not be intimidated by the success of the British arms in Germany.

"5. The expedience of the present continental measures cannot be justified, either on the principles of its being a war of diversion of the forces of France from the invading his Majesty's dominions, or the succouring their own colonies, both of which they are incapacitated from doing, by the ruin of their naval force; neither can it be alleged as a measure calculated to support the king of Prussia, who is not at war with France, nor in danger, though the British troops should be withdrawn, of being crushed by that power, whose interest will undoubtedly restrain her from taking a step which could only tend to the aggrandizement of the House of Austria, the ancient and natural rival of the House of Bourbon.

"6. The present great scarcity of specie, and the low state of the public funds, renders it the indispensible duty of this House, to suggest to the throne every means of preventing an unnecessary profusion of the public treasure; more especially, when the payments that must be daily made, and which must be done by the exportation of bullion, must unavoidably cause such a stagnation of trade and

were wanted for any important expedition against Spain, it would be another question—The court of France have risked their whole upon the German war—All the success has happened from confidence; party unanimity and national unanimity.

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industry, as may be of the most fatal consequence to this country, which can in no degree be compensated for on the ill-grounded notion, that the expences of the enemy are equally great and burthensome to them; which is not only denied, as it can never be proved, but is moreover exploded by this undeniable truth, that France, by withdrawing her troops, can put an end to it whenever she pleases, and without any danger to herself of being attacked by an inferior army on her own frontiers on that side; and which, as she has not yet done, is a sufficient proof of the truth of this proposition.

"7. The agreeing to the Resolution proposed could be in no degree construed as a breach of faith to our allies, or a stain to the honour of the nation, as we are bound by no treaties to keep an army in Germany; and the war on that continent seems to have been entered into voluntarily by us, without being called upon by any other powers, and most precipitately taken up again, when it had been so happily extinguished by the convention of Closter Seven.—— (*Signed*) — Wycombe, Dunmore, Pomfret, Bedford, C. P. S. Bridgwater, Vere, Brooke and Warwick."

The King's Message recommending Support to the King of Portugal.] May 11. Lord Barrington presented to the Commons the following Message from his Majesty:

"GEORGE *R.*

"His Majesty, relying on the known zeal and affection of his faithful Commons, and considering, that in this conjuncture, emergencies may arise, which may be of the utmost importance, and be attended with the most pernicious consequences, if proper means should not immediately be applied to prevent or defeat them: and his Majesty also taking into his most serious consideration the imminent danger with which the kingdom of Portugal, an ancient and natural ally of his crown, is threatened by the powers now in open war with his Majesty, and of what importance the preservation of that kingdom is to the commercial interests of this country, is desirous that this House will enable him to defray any extraordinary expences of the war, incurred, or to be incurred, for the service of the year 1762, and to take all such measures as may be necessary to disappoint or defeat any enterprises or designs of his enemies, against his Majesty, or his allies; and as the exigency of affairs may require.

"G. *R.*"

This Message was taken into consideration on the 13th, when the House granted the sum of one million for the purposes therein specified.

Debate in the Commons on the King's Message respecting Portugal.] Upon this occasion the following debate took place:

Mr. *Glover** endeavoured to shew that the king of Portugal had violated his engagements with the English wine merchants, whose complaints, he said, had not been properly attended to by the late minister (Mr. Pitt); and therefore he thought the king of Portugal had no right to expect any assistance from England.

Lord *George Sackville* objected to the sum to be granted, which he thought too large. He then shewed the difference in the expence of queen Anne's war and the present; that though in the former, he said, we had near 180,000 troops employed on the continent, and in the present not above half that number, yet the expence now was much greater than at that time, which he thought must be owing to a want of economy in the managers of the German war. He was of opinion the expence the nation had been at was so great, that it was impossible to raise any further supplies; that therefore, he feared he should see the time when we should come to a full stop for want of money to carry on the war; that he bled to see his country in such distressed circumstances; and concluded with hoping he should not see the time, when we, as a conquering nation, should be obliged to ask a peace of those who ought to beg it of us.

Mr. *Pitt*, though not in the King's service, supported the resolution of the Committee of Supply. He began with point-

* "Mr. Richard Glover was born in London, and educated at Cheam school. He afterwards engaged with his father in the Hamburgh trade, and in 1737 married a woman of fortune, and produced his admired poem of Leonidas. The powers of mind which he possessed were now displayed in political dissensions; he was a popular leader at elections, and when appointed one of the committee in an application to the House of Commons from the London merchants, he spoke with such boldness and energy at the bar of the House that his Address was printed, and excited universal attention. He sat in parliament for Weymouth at the election of 1761, and died 1785, aged 74, much and deservedly lamented." Lempriere.

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ing out the necessity of continuing the war in Germany, and of supporting the king of Portugal. He observed, that in times of war, connexions with the continent had always been found political, except in the four unhappy reigns of the Stuarts. Then, turning about to several persons, he very jocularly said, "You who are for continental measures, I am with you; and you who are for assisting the king of Portugal, I am with you; and you who are for putting an end to the war, I am with you also; in short, I am the only man to be found that am with you all."

He then enumerated the successes which had attended the British arms in all parts of the world, and the immense advantages gained in our trade, which would more than compensate the great expence we had been at; and which, he observed, was a consideration that had been overlooked by those who were complaining of the heavy burthen of the war. And in regard to contracting the expences, he entirely agreed with those who were for it, and urged, that whoever would effect this salutary work, would deserve the highest encomiums; but he hoped a distinction would be made between contracting the expence, and contracting the operations of the war, and desired any one present to shew how the latter could have been, or might still be done with safety.

He then remarked, that he did not find any less expence attended the nation now, than when he unworthily held the seals, or that more was done; and turning to the marquis of Granby, he observed, that he knew his zeal for the service of his country was such, that if he had received his orders, he was sure he would not then be where he was. And as to what the noble lord had said, no one doubted his capacity, if his heart was but as good; that, as for his own part he could not tell the reason of the continental expences being greater now than in queen Anne's time, unless it was because provender and every thing else in Germany was dearer now than then, and wished the noble lord had explained that part of his speech, for he did not properly know what to make of it; it carried a something, a suspicion he did not well understand: but if he meant that there had not been fair play with the money, he knew nothing of it; and then stretching out his hands, and moving his fingers, said they were clean, there was none of it stuck to them; and that he would second any person who should move for an enquiry into all the money-matters; he was anxious to know how it was appropriated, that the whole truth might come out. He observed, that the noble lord had said, he bled for his country, and he did not wonder at it; that it was his opinion, he ought to throw his body at his Majesty's feet, and there bleed at every pore.

He then represented, that in consequence of our withdrawing our troops from Germany, Portugal and the Low Countries would become a prey to the French and Spaniards; that in point of policy we ought not to suffer it; but that he did not mean to bear Portugal on our shoulders, but only to set him on his legs, and put a sword in his hand. He affirmed, that France was almost a ruined nation, having expended in the last year upwards of eight millions, and had been still losing: that he knew the finances of France, as well as any man in England; and that we, by our successes, were repaid for our expences: that it was wrong and unjust to represent Great Britain in so deplorable a state, as unable to carry on the war (for there were always strangers in the gallery, who wrote to their friends in Holland an account of what passed in that place, and the Dutch forwarded it to the French); that it was well known, England never was better able to support a war than at present; that the money for this year was raised, and he would answer for it if we wanted fifteen or twenty millions for next year, we might have it. He therefore strongly recommended the million as desired: that he knew the cry which had been propagated for these three years; 'You won't be able to raise money to continue the war another year;' and yet we all saw the contrary. He affirmed, that one campaign might have finished the war; (alluding to his own proposal of demanding a categorical answer from Spain.) And in answer to the gentleman (Mr. Glover) who had said, that the complaints of the Portuguese merchants had not been attended to, he insisted, that so far from it, he had spent many nights in considering them; and referred that gentleman to what had passed between him and the ambassador of the court of Portugal, wherein those points had been adjusted; but those complaints and the interests of the merchants, he said, had been abandoned ever since the period that he had been compelled to abandon his official situation.

He then recommended union and har-

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mony to the ministry, and declared against altercation, which he said was no way to carry on the public business; and urged the necessity of prosecuting the war with vigour, as the only way to obtain an honourable, solid, and lasting peace; and proved from the readiness with which supplies had been granted that there would be little danger of a stop on that account, so long as the money was properly applied, and attended with success. He said, he wished to save Portugal, not by an ill-timed and penurious, but by a most efficacious and adequate assistance.

Colonel *Barré* made a few observations on Mr. Pitt's speech.

Mr. *Nicholson Calvert* spoke as follows:

Mr. Speaker; Sir, I am for assisting the king of Portugal. The law of nature, the law of nations, the law of humanity, the law of sound policy, make me do it. That nation (says a great authority) which will not assist its near ally in distress, the individuals of it will not assist their fathers, their mothers, their brothers, their sisters, or any body who belongs to them.

But, Sir, what chiefly calls me up, is what fell from an honourable gentleman over the way. I have heard, Sir, a very respectable character of this country, (in my opinion), if not indecently, very roughly handled by that hon. gentleman more than once during this session of parliament. Demetrius, Sir, was ruler at Athens some few years; during which time he so greatly increased the honour and dignity of that city, that the inhabitants erected 36 statues to the honour of his memory. By a sudden change of affairs, Demetrius is banished his country. O fickle! O inconstant Athenians! in his absence.* By the treacherous accusations of malicious citizens, he is condemned to die, and all the images, except one, pulled down and destroyed! What said Demetrius for all that? "They have not pulled down that virtue for which they did erect those images."

As I am now upon my legs, if the House will indulge me in a few words, I will give them the articles of my faith. When I first, Sir, came into parliament, I followed and adopted the sentiments of a set of gentlemen, who, to me, seemed to have deservedly acquired the good opinion of this country. I was taught, Sir, to look upon those who differed with them in opinion, that that difference of opinion was not owing to any real good intention for the welfare of their country, but to an implacable aversion to the family on the throne.

Now, Sir, were these gentlemen (whose sentiments I have adopted and followed for the last seven years of my life) to tell me, that they themselves have been in an error, that their opponents have been right; and, to exculpate themselves, were to rake up the ashes of their departed sovereign! *Parce sepultis*, I should tell them: gentlemen, I will act with you no longer; you are not fit to be trusted by either your king or country.

I do not think, Sir, that "America was conquered in Germany;"* nor did the right hon. gentleman who said it think so literally. But I think, Sir, something very like it. He is a baby in politics, who does not see the connection the German war has had with that in America. Gentlemen, Sir, take up things at the wrong end. At the close of a most glorious and successful war, they clamour against continental measures.

Sir, that minister who goes to war with France, when that nation is in her full vigour, without a diversion on the continent, does it with a halter about his neck: the King would be fighting for his dominions within six months in this country.

I know, Sir, my principles are right; I have well weighed them, and considered them; I have probed them to the bottom; nothing shall ever make me depart from them. There seems, Sir, but one opinion in this House, in relation to the German war, as it is now carried on; which is, to get out of it, so soon as we can, with honour.

The hon. gentleman over the way puts me in mind of a story, of a poet in a storm. When all the ship's crew were exerting themselves, some one way, some another, striving who should be foremost in saving the ship; the poet was missing; a cry went immediately through the ship: Where is the poet? where is the poet? He was at last found in the lower part of the ship, scratching his head, running about like a madman: Sir, he was thinking how he should best describe the storm. I beg, Sir, the pardon of the House for

* The first and most violent attack was made by Mr. Barré in Mr. Pitt's absence.

* Mr. Pitt had made use of this expression in a former debate, which was, upon all occasions, much ridiculed by the opposite party.

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taking up so much of their time. Montesquieu says, "Good sense is always confined to a little compass."*

The King's Speech at the Close of the Session.†] June 2. The King put an end to the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The public business, for which you were assembled, being now happily concluded, the advanced season of the year calls upon me to put an end to this session of parliament; which I cannot do, without expressing the highest approbation of the zeal, unanimity, and dispatch, which have so signally appeared in the course of your proceedings.

"At the opening of this session I informed you, that it had been my earnest wish to restore the blessings of peace to my people; but that it was my fixed resolution, with your concurrence and support, to carry on the war in the most effectual manner, till that desirable object could be obtained upon equitable and honourable conditions. My sentiments in both these respects continue invariably the same, and I have the satisfaction to find them confirmed by the unanimous voice of my parliament.

"The declaration, which motives of humanity have engaged the emperor of Russia to make to all the courts in that alliance, and the great and happy change in the situation of my ally, the king of Prussia, give us just reason to hope, that the other belligerent powers may be induced to entertain the same pacific dispositions. On the other hand, our rupture with Spain, notwithstanding my utmost endeavours to prevent it, and the violent and unprovoked attack with which the dominions of my ancient ally, the king of Portugal, are threatened, sufficiently evince the wisdom and necessity of that firmness and resolution in my parliament, which have enabled me to continue our military operations, without the least interruption or delay; and considerably to augment my fleets and armies in those parts, in which our enemies can be most sensibly distressed. The signal success of my arms in the conquest of Martinico, and the acquisition of many other valuable settlements in the West Indies, have, under the blessing of God, been the happy consequences of these measures. I trust in the divine Providence that they will be attended with still farther advantages, until the powers at war with us shall be disposed to such terms of accommodation, as the dignity and just rights of my crown, the future security and commercial interests of my subjects, will permit me to accept.

"Gentlemen of the House of Commons:

"When I consider the ample supplies which you have granted, I cannot but lament the heavy burthens, which the necessities of the public service have obliged you to impose upon my people. From this consideration, I have endeavoured, in every instance, to restrain my demands within as narrow bounds as the difficulties, in which I found myself involved, would allow. From the same motive, my utmost care shall be employed to exert the most exact œconomy, consistent with the safety of my kingdoms, and the good faith and honour of my crown.

"I return you my particular thanks, for the proof which you have given of your regard to me, and to my family, in the ample provision you have made for the Queen; whose virtues, and affection to this country, will, I am confident, be found to deserve it.

"My Lords and Gentlemen:

"I have the fullest persuasion, that you will continue to diffuse in your several counties that spirit of concord, which you have yourselves so steadily exerted in parliament: and you may be assured, that I will, on my part, return your zeal and affection for my person and government,

* This Speech is said to have silenced all future attacks by the poet, either on Mr. Pitt, or his administration; and was well received by all sides.

† During the whole of this session the Standing Order for the admission of strangers was strictly enforced in both Houses. In a few days after the opening of the session, the serjeant at arms informed the House of Commons, That in pursuance of their order, "That the serjeant at arms, attending this House, do, from time to time, take into his custody any stranger or strangers that he shall see, or be informed of to be in the House or gallery, while the House, or any committee of the whole House, is sitting; and that no person, so taken into custody, be discharged out of custody, without the special order of the House;" he had taken into his custody a stranger, who was in the gallery while the House was sitting, upon Tuesday last, and that the said person is still in his custody. Upon which it was ordered, that the said person be discharged out of the said custody, paying his fees.

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by a constant attention to whatever may contribute to the ease of my subjects; and that it is my ardent wish, to found the glories of my reign on the union of my people, and on the welfare and prosperity of these my kingdoms."*

The Parliament was then prorogued to the 15th of July; and was afterwards further prorogued to the 25th of November.

SECOND SESSION
OF THE
TWELFTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 25, 1762. His Ma-

* "Since the retreat of Mr. Pitt, the ministry had preserved no appearance of unanimity. Great jealousies subsisted between the duke of Newcastle and lord Bute, occasioned no less by the desire of pre-eminence, than by a radical difference of principles and politics. The duke of Newcastle, on his entrance into public life, enlisted under the banners of party, and was supported through the long period of his ministerial career, by party and family alliances: lord Bute, pursuing, or perhaps directing, the system of his sovereign, was desirous to free the throne from exclusive domination, and to acquire independence, by resisting claims derived from family and adventitious connections. The duke of Newcastle, habituated to Mr. Pitt's ascendancy, bore it without resistance; but could not endure to be considered inferior to lord Bute. For this reason, while the people carried their idolatry of the late minister to the greatest excess, and attributed to his foresight all the successes which adorned the annals of the new administration, those men in office who, from situation and character, were best able to counteract the effect of these reports, surveyed their progress with indifference, and if not actually in league with the opposition, yet formed a combination among themselves, which left lord Bute weakly supported to struggle against the united efforts of a party, formidable from numbers, abilities, and popularity.

"The means of prosecuting the war, formed a principal ground of difference between lord Bute and the duke of Newcastle. Lord Bute determined to withdraw all pecuniary support from the king of Prussia, and to relax the efforts which this country was making on the continent of Europe. The duke of Newcastle, having resolved on an opposite mode of conduct, waited on lord Bute, and in a peremptory manner insisted on two millions for carrying on the German war, and paying the king of Prussia's subsidy. Lord Bute shewing himself averse to the measure, the duke of Newcastle declared his intention to resign, unless the money was raised. His lordship answered, drily, 'that if he resigned the peace might be retarded; but never requested him to continue in office, nor said a civil thing to him afterwards while they remained together. The duke went immediately to St. James's, demanded an audience, and announced his unalterable resolution to relinquish his station, if the subsidy to Prussia was not continued. The King replied, he should regret such a determination, because he was persuaded that he wished well to his service; and thus the conference ended.'

"The duke of Newcastle immediately resigned, refusing a pension, which was offered as the only reward in the power of government to bestow for his long services, and the diminution of his large estate in the uniform support of the House of Brunswick. Lord Bute took his situation at the head of the treasury; Mr. Grenville was appointed secretary of state, and sir Francis Dashwood chancellor of the exchequer." Adolphus.

"On the resignation of Mr. Pitt, the entire direction of affairs was vested in the earl of Bute, who enjoyed the favour, affection, and confidence of the sovereign, in a degree which no minister since the earl of Clarendon in the zenith of his power had possessed. He had not, however, as yet attained the summit of his ambition. The duke of Newcastle still held the high and pre-eminent office of first commissioner of the treasury, but this post the "Favourite" now thought he might safely assume. The duke of Newcastle, therefore, at the latter end of May 1762, the session of parliament being nearly closed, received an intimation that his resignation was expected. His grace was informed, that the king purposed, in consideration of his past services, to grant him an ample and adequate pension. But the duke, whose generosity bordered upon negligence and profusion, nobly replied, "that if he could no longer be permitted to serve his country, he was at least determined not to be a burden to it."

"The dismission of this nobleman, who had been ever distinguished for the zeal and fidelity of his attachment to the House of Hanover, and who had impaired his fortune and devoted his life to the support of that cause in which he had been from his early youth engaged, excited extreme indignation in the breasts of the whole Whig party, amongst whom his steadiness, affability and disinterestedness made him, notwithstanding the mediocrity of his talents, exceedingly popular. It was thought a complication of levity and ingratitude thus to discard an old and faithful servant, who in the course of nature could not be expected long to trouble any competitor; and it discovered such an impatience in the new minister to engross an absolute monopoly of power, as gave countenance to suspicions of deep and dangerous designs. The duke, who had been treated with a flatter-

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jesty opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen:

"I found, on my accession to the throne, these my kingdoms engaged in a bloody and expensive war. I resolved to prosecute it with the utmost vigour; determined, however, to consent to peace, upon just and honourable terms, whenever the events of war should incline the enemy to the same pacific disposition.

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ing degree of personal attention, or at least with a respectful decorum and civility, so long as his name was deemed necessary by the projectors of the new system, appeared himself highly to resent the rude and compulsive mode of his dismission; and he hesitated not again to connect himself with Mr. Pitt, for many years his alternate rival and associate; with whom he had never indeed entered into any very cordial alliance, but their mutual animosity against the earl of Bute now formed a new bond of amity and concord between them.

"The duke of Devonshire, soon after the removal of the duke of Newcastle, unable to brook the marked and contemptuous neglect which he experienced, resigned indignantly his office of lord chamberlain, and was by the King's own hand struck out of the list of the privy council. The earl of Hardwicke retired in disgust; and the duke of Grafton, lord Ravensworth, and lord Ashburnham, with several other noblemen of high distinction, now ranged themselves on the side of the opposition. Lord Anson was succeeded at this period in the admiralty by the earl of Halifax, recently returned from the government of Ireland, in which he was succeeded by the duke of Northumberland; and Mr. George Grenville was advanced to the secretaryship vacated by the earl of Bute. But in a short time this order of things was reversed: lord Halifax took the seals, and Mr. Grenville was placed at the head of the admiralty. No political conflict however could take place before the ensuing winter, and the summer months passed over in angry and ineffectual discontent." Belsham.

"From the commencement of his administration, the earl of Bute had shewn a disposition to procure peace, as soon as it could be concluded with sound policy and national honour; and though patriotism may have had its share in exciting this desire, yet there were other causes which no doubt co-operated. These are to be found in the character of the Bute administration, the state of parties, and of the public mind. The earl of Bute had for some months been first lord of the treasury, and the greater number of Whigs had either been dismissed, or resigned; so that there was a formidable confederacy hostile to the present minister. A less numerous but more able body, headed by Mr. Pitt, without coalescing with the Newcastle party, was adverse to the ministry. From the known attachment of his Majesty to the earl of Bute, that nobleman was accounted the private and confidential friend of the King. Being decorated with honours at the commencement of the reign, and soon after promoted to high office, which was not in the public estimation conferred upon his political talents and virtues, he was generally esteemed and styled the royal Favourite. Though his Majesty himself proposed to govern the kingdom by wisdom and virtue, and not by party, yet that was thought to be far from lord Bute's object. Since, by the appointment of him and his friends, the nation did not conceive that there was an accession of wisdom or virtue to his majesty's counsels: and since their rise was imputed to private favour and not public merit, it was apprehended that the project of the minister was to govern by what his opponents called a system of mere court favouritism. The supposed operation of this plan was exhibited with great force and eloquence, both by speakers in parliament and political writers. The deportment of Bute was by no means such as tended to counteract this unpopularity. Notwithstanding his erudition and knowledge, he had imbibed the pride and prejudices of a Scottish chieftain. With exemplary morals, he was reserved and haughty in his manners, and in that respect as different from the frank affable duke of Newcastle, as in point of abilities from Mr. Pitt. He was, besides, charged by the Whigs with being the friend of arbitrary power. In his appointment to subordinate offices, he had frequently removed Englishmen of known and respectable characters, to make room for Scotchmen, who, however respectable, were not known, and were presumed to be the abettors of arbitrary power; and this partiality increased the popular ferment. The Whig party had been uniformly connected with the monied interest, and Pitt possessed the most unlimited confidence of that important body of men. The supplies of the current year had been raised while the duke of Newcastle was at the head of the treasury. On lord Bute they had no reliance; and in the year which was to follow, the capitalists were more likely to obstruct than to facilitate the supplies. A great host of opposition, though in two divisions yet one in enmity to the minister, appeared ready to attack him when parliament should be assembled. So thwarted and obstructed, to carry on the war with the force and success which the nation, exulting in recent victory, expected, would, he conceived, be impracticable. Besides, he thought the actual resources of the country were nearly exhausted, and that another campaign would produce financial distress; the difficulties of perseverance in attempting to reduce the power of Bourbon, therefore, appeared to his mind as impossibilities: for all these reasons, he was desirous that a negociation should be commenced." Bisset.

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"A negociation was accordingly begun last year, which proved ineffectual. The war became afterwards more general, by the resolution of the court of Madrid to take part with my enemy, notwithstanding my best endeavours to prevent it.

"This, with the unexpected attack of my natural and good ally the king of Portugal, greatly affected our commerce, multiplied the objects of our military operations, and increased our difficulties, by adding to the heavy burdens under which this country already laboured.

"My object still continued the same, to attain an honourable peace, by pursuing this more extensive war, in the most vigorous manner. I embraced, therefore, an occasion offered me of renewing the negociation; but, at the same time, I exerted so effectually the strength which you had put into my hands, and have been so well served by my fleets and armies in the execution of my plans, that history cannot furnish examples of greater glory, or greater advantages acquired by the arms of this, or any other nation, in so short a period of time. My general, prince Ferdinand of Brunswick, and my army in Germany, have gained immortal honour by many signal advantages obtained during the course of this campaign, over an enemy superior in numbers. The progress of the French and Spanish arms in Portugal has been stopt; and that kingdom preserved by the firmness and resolution of its sovereign, and by the military talents of the reigning Count La Lippe, seconded by the valour of the troops under his command. Martinico, and other islands in the West Indies, have been conquered; the Havannah, a place of the utmost importance to Spain, is in my possession, and with it great treasures, and a very considerable part of the navy of Spain are fallen into our hands.

"I cannot mention these achievements which reflect such honour on my crown, without giving my public testimony to the unwearied perseverance, and unparalleled bravery of my officers and private men, by sea and land; who, by repeated proofs, have shewn that no climate, no hardships, no dangers can check the ardour, or resist the valour of the British arms.

"Next to the assistance of Almighty God, it is owing to their conduct and courage, that my enemies have been brought to accept of peace on such terms, as I trust, will give my parliament intire satisfaction. Preliminary Articles have been signed by my minister, with those of France and Spain, which I will order, in due time, to be laid before you.*

"The conditions of these are such, that there is not only an immense territory added to the empire of Great Britain, but a solid foundation laid for the increase of trade and commerce; and the utmost care has been taken to remove all occasions of future disputes between my subjects, and those of France and Spain, and thereby to add security and permanency to the blessings of peace.

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* "The glorious successes of the war had no power to divert the minister's attention from the great object of peace: he was anxious to resume negociations, and for that purpose, engaged the king of Sardinia, as a neutral power, to propose to the court of France a termination of hostilities. These proposals could not be disagreeable to the French nation, enfeebled and despondent as they were, and convinced, by the experience of a most active campaign, that the union with Spain, far from bringing the assistance and relief they had fondly hoped, was, in fact, a dangerous association, or at best a listless incumbrance. To prevent the effects which might arise from interested speculations, the minister sent notice to the lord mayor of his intention to open a negociation for peace. The duke of Bedford was deputed from England as minister plenipotentiary, and the duc de Nivernois from France. The final adjustment of the objects of treaty was reserved to lord Bute and the earl of Egremont in England, and M. de Choiseul in Paris; their medium of communication being through the Comte de Viri, the Sardinian minister in London, and the Bailli de Solare, minister from the same court in France.

"The negociation was proceeding at this time with a rapidity and harmony which promised ultimate success. By prudently dismissing from consideration all matters relating to Germany, which did not immediately affect the interests of the contracting powers, much of the jealousy prevalent during the late treaty was dispelled, and the progress of accommodation facilitated. The greatest obstacle to its completion arose from the triumphs of the British arms, which inflamed the pride and cupidity of the people, and, by making the situation of the enemy appear more desperate, encouraged them to insist on retaining more than justice or sound policy required. The ministry were by these means reduced to an awkward dilemma: if they pretended to retain their recent acquisitions, they could not hope for a peace, but merely for an insincere and sullen truce; if they gave them up, not only the efforts of the preceding administration, but their own exertions and the expences of the current year, would be alleged as a crime. Preliminary Articles were at length signed." Adolphus.

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"While I carefully attended to the essential interests of my own kingdoms, I have had the utmost regard to the good faith of my crown, and the interests of my allies: I have made peace for the king of Portugal, securing to him all his dominions; and all the territories of the king of Prussia, as well as of my other allies in Germany, or elsewhere, occupied by the armies of France, are to be immediately evacuated.

"Gentlemen of the House of Commons:

"I have ordered the proper Estimates to be laid before you, and shall, without delay, proceed to make reductions, to the utmost extent, wherever they may be found consistent with wisdom and true policy: it is the greatest affliction for me to find that, though the war is at an end, our expences cannot immediately be so much lessened as I desire; but as nothing could have carried us through the great and arduous difficulties surrounding us, but the most vigorous and expensive efforts, we must expect, for some time, to feel the consequences of them to a very considerable degree.

"My Lords and Gentlemen;

"It was impossible to execute what this nation has so gloriously performed, in all parts of the world, without the loss of great numbers of men: when you consider this loss, whether on the principles of policy or humanity, you will see one of the many reasons which induced me to enter early into negociation, so as to make a considerable progress in it, before the fate of many operations was determined, and now to hasten the conclusion of it, to prevent the necessity of making preparations for another campaign. As by this peace my territories are greatly augmented, and new sources opened for trade and manufactures, it is my earnest desire that you would consider of such methods in the settlements of our new acquisitions, as shall most effectually tend to the security of those countries, and to the improvement of the commerce and navigation of Great Britain: I cannot mention our acquisitions, without earnestly recommending to your care and attention my gallant subjects, by whose valour they were made.

"We could never have carried on this extensive war, without the greatest union at home. You will find the same union peculiarly necessary, in order to make the best use of the great advantages acquired by the peace; and to lay the foundation of that œconomy which we owe to ourselves, and to our posterity; and which can alone relieve this nation from the heavy burthens brought upon it by the necessities of this long and expensive war."

The Lords' Address of Thanks.] His Majesty having retired, the following Address, moved by the Lord Lovel and Holland, was agreed to:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our humble thanks, for your most gracious Speech from the throne.

"Permit us, Sir, to take this earliest opportunity to entreat your Majesty to accept our most sincere and fervent congratulations on the birth of an heir to your crown, which adds to your Majesty's domestic happiness, and endears your royal consort to the people of these realms; and promises that, under a prince formed to the arts of government by your Majesty's royal example, the civil and religious liberties, the glory, the commerce, and the power, of Great Britain, will be transmitted to posterity.

"It is with the utmost gratitude that we acknowledge your Majesty's unwearied attention to the prosperity and happiness of your people, which made your Majesty constantly solicitous, even amidst the glory of your victories, to deliver them from the burdens of war by a just and honourable peace. At the same time, we cannot but admire the wisdom which pointed out to your Majesty the most vigorous efforts, as the surest means of procuring this blessing for your people.

"We beg leave to offer to your Majesty our humble congratulations, on the signal successes which have attended your Majesty's arms in the course of the present year; on the reduction of the strong island of Martinico; on the conquest of the Havannah, the bulwark of the Spanish colonies; and on the acquisition of so much treasure, and of so great a part of the Spanish marine; on the many advantages obtained in Germany over the arms of France, although superior in numbers, by the able conduct of your Majesty's general prince Ferdinand of Brunswick, and by the valour of the troops under his command; and on the preservation of Portugal from the dangers which threatened instantly to overwhelm that kingdom, and which could not have been so

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long withstood but by the firmness of its sovereign, by the military talents of the reigning count La Lippe, and by the valour of the troops employed in that service. These achievements must be acknowledged to be equal to whatever has been performed in any former year even of this prosperous war, though a new enemy necessarily made our military operations more extensive, and added new difficulties to those we struggled with before: achievements which reflect the highest honour on the councils that planned them, on the commanders who carried them into execution, and on the fleets and armies whose intrepidity no dangers could dismay.

"Allow us to express, in the most fervent and grateful manner, our joy and congratulations, that, by these repeated efforts, your Majesty has at length compelled your enemies to consent to terms of peace: as well as to offer to your Majesty our sincere thanks, for your having informed your parliament, that Preliminary Articles are already signed by your Majesty's minister and by those of France and Spain; for your Majesty's most gracious assurances, that you will cause these Articles, in due time, to be laid before them; and for the lights your Majesty has been pleased to give concerning the conditions of them; which afford to your people the fairest prospect of future happiness, prosperity, and security.

"Your Majesty may be assured, that we will not fail, on our part, to take, as soon as possible, into our consideration the proper methods for the settlement of our new acquisitions, for improving their commerce, and thereby rendering them useful to the mother country. Truly sensible of the merits of those gallant men by whose valour those acquisitions have been made, we shall be ready to concur in every reasonable proposition for rewarding them. Lamenting, at the same time, as we do, the loss of so many of our fellow subjects, by which the national strength is greatly impaired, we cannot sufficiently admire that wisdom which seized the fortunate hour of reaping the advantages of our victories, while we were yet on the summit of our glory, and before we had experienced any reverse of fortune. In grateful return for those many blessings which your Majesty's royal wisdom and fortitude have procured for us, your Majesty may depend on our warmest zeal, on our constant endeavours to promote that unanimity your Majesty recommends in all our proceedings, and on our attention to those measures of œconomy which are the peculiar business of times of peace, and which alone can relieve your Majesty's faithful people from the oppressive burdens of so long and so expensive a war."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"This very affectionate and loyal Address gives me the truest satisfaction. I thank you heartily for it, as well as for your congratulations on the birth of the Prince my son, and for the regard you express on this occasion for the Queen.

"The cheerful and steady support of my parliament throughout the war has been attended with uninterrupted success; and the ratification of the Preliminary Articles will, I trust, soon be followed by the completion of the Peace on safe and honourable conditions.

"My only wish is, and ever will be, to promote the lasting happiness, prosperity, and security, of my faithful people."

*The Commons' Address of Thanks.**] The Commons being returned to their House, lord Carysfort moved the following Address, which being seconded by lord Charles Spencer, was agreed to by the House:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your Majesty the most humble and hearty thanks of this House, for your most gracious Speech from the throne.

"Permit us, at the same time to congratulate your Majesty on the auspicious birth of his royal highness the Prince of Wales, and the recovery of your royal consort, endeared to this country, not only by this important event, but by her own personal virtues.

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* "In the evening of the day preceding the meeting of parliament, the members of the House of Commons met, as usual, at the Cockpit. Mr. Fox took the chair, and produced to the company a paper which he only called a Speech, and which he said he would, as usual, read to them. He afterwards produced an Address, which he read, and then said, that lord Carysfort and lord Charles Spencer had been so kind as to undertake to move and second that Address." Life of Lord Chatham.

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"We acknowledge, with the utmost gratitude, your Majesty's great attention to the welfare of your people, in the vigorous prosecution of the war; and congratulate your Majesty on that happy effect of it, the prospect of such a peace as may give stablility and permanency to the blessings we promise ourselves under your Majesty's most auspicious reign.

"We assure your Majesty, that your faithful Commons are truly sensible of the wisdom with which your plans have been concerted, as well as of the successful zeal with which they have been carried into execution by your fleets and armies.

"The resolution and intrepidity of your Majesty's army in Germany, and the military skill and distinguished activity of your general, prince Ferdinand of Brunswick, which have obtained so many signal advantages over an enemy so superior in numbers, are objects of our highest admiration: the stopping the progress of the French and Spanish arms in Portugal, and the preservation of that kingdom, by the firmness and resolution of its sovereign, and by the superior talents and able conduct of the reigning count La Lippe, seconded by the valour of the troops under his command, are events of the highest importance to this nation and its commerce: the reduction of Martinico, so glorious to your Majesty's arms, and the still more glorious and important conquest of the Havannah, by which great treasure and a very considerable part of the navy of Spain are fallen into your Majesty's hands, speak the wisdom of your councils, and the valour of those employed in the execution of these great commands, and fill our hearts with gratitude and satisfaction.

"The public testimony which your Majesty has therefore graciously given to the unwearied perseverance and unparalleled bravery of your officers and private men, by sea and land, to which, under God, these glorious achievements are to be attributed, is a no less honourable than deserved reward of their services, and must be an additional recommendation of them to the esteem and gratitude of their country.

"Allow us, Sir, to thank your Majesty for having promised to direct the Preliminary Articles of the Peace to be laid before us. And we receive, with the greatest satisfaction, the information which your Majesty has condescended, in the mean time, to afford us; from which we promise ourselves, that, with your Majesty's dominions, our trade will be increased; and that all occasions of future disputes being removed, the blessings of peace will be thereby rendered permanent and secure.

"We return your Majesty our most sincere and humble thanks for your great goodness and tender regard for the welfare of your subjects, in proceeding without delay to the conclusion of the negociation of peace, so expedient for this country; and for your gracious intentions, as soon as it shall be concluded, to reduce the public expences.

"Your Majesty may be assured, that your faithful Commons will cheerfully assist in the support of such expences as may be still necessary, with due regard to that œconomy which your Majesty recommends to us, as far as may be consistent with wisdom and true policy.

"We will not fail to consider of the most effectual methods of settling our new acquisitions, of securing those countries to us, and of improving our commerce and navigation. And, lamenting the loss of those many brave men who have fallen in this glorious war, we will pay all due attention to the services of those who yet remain, by whose valour those acquisitions have been made. And we will continue to cultivate that union to which we greatly owe the successes of the war, in order thereby to make the best advantages of peace, and lay the foundation of that œconomy which we owe to ourselves, and to our posterity."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen;

"I return you my hearty thanks for this very dutiful and affectionate Address; and I receive your congratulations on the birth of the Prince, my son, as a fresh proof of your attachment to my person, and of your regard for the Queen.

"The assurances of your ready support in such expences as may be still necessary, afford me the highest satisfaction; and the ratification of the Preliminary Articles gives me the pleasing hope of soon easing my faithful subjects, by a safe, honourable, and permanent Peace, of the heavy but unavoidable burthens they have so cheerfully borne during the war."

Preliminary Treaty of Peace between Great Britain, France, and Spain.] November 29. The Chancellor of the Exchequer presented to the House of Com-

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mons, by his Majesty's command, a copy of the Preliminary Articles of Peace, signed at Fontainebleau, November 3rd, 1762, by the plenipotentiaries of Great Britain, France, and Spain; and translation: and also, a copy of a Declaration signed at Fontainebleau the 3rd of November 1762, by the French plenipotentiary, relating to the 13th Article of the Preliminaries.

The following are Copies of the said Papers:

Translation of the PRELIMINARY ARTICLES of PEACE, signed at Fontainebleau, November 3rd, 1762, by the Plenipotentiaries of Great Britain, France, and Spain.

In the name of the most holy Trinity.

The King of Great Britain, and the most Christian king, animated with the reciprocal desire to re-establish union and good understanding between them, as well for the good of mankind in general, as for that of their respective kingdoms, states, and subjects, having reflected soon after the rupture between Great Britain and Spain, on the state of the negociation of last year (which unhappily had not the desired effect) as well as on the points in dispute between the crowns of Great Britain and Spain, their Britannic and most Christian majesties began a correspondence, to endeavour to find means to adjust the differences subsisting between their said majesties: at the same time the most Christian king having communicated to the king of Spain these happy dispositions, his Catholic majesty was animated with the same zeal for the good of mankind and that of his subjects, and resolved to extend and multiply the fruits of peace by his concurrence in such laudable intentions; their Britannic, most Christian, and Catholic majesties, having, in consequence, maturely considered all the above points, as well as the different events which have happened during the course of the present negociation, have, by mutual consent, agreed on the following articles, which shall serve as a basis to the future treaty of peace; for which purpose his Britannic majesty has named and authorised John duke and earl of Bedford, marquis of Tavistock, &c. minister of state of the king of Great Britain, lieutenant general of his forces, keeper of his privy seal, knight of the most noble order of the Garter, and his Britannic majesty's minister plenipotentiary to his most Christian majesty; his most Christian majesty, Cæsar Gabriel de Choiseul, duke of Praslin, peer of France, knight of the most Christian king's orders, lieutenant general of his forces, counsellor in all his councils, and minister and secretary of state of his commands and finances; and his Catholic majesty has likewise named and authorised Dom Jerome Grimaldi, marquis de Grimaldi, knight of the most Christian king's orders, gentleman of the bedchamber to his Catholic majesty in employment, and his ambassador extraordinary to his most Christian majesty; who, after having duly communicated to each other their full powers in good form, have agreed on the following Articles.

ART. I. As soon as the preliminaries shall be signed and ratified, sincere friendship shall be re-established between his Britannic majesty and his most Christian majesty, and between his said Britannic majesty and his Catholic majesty, their kingdoms, states, and subjects, by sea and by land, in all parts of the world. Orders shall be sent to the armies and squadrons, as well as to the subjects of the three powers, to stop all hostilities, and to live in the most perfect union, forgetting what has passed, of which their sovereigns give them the order and example: and, for the execution of this Article, sea passes shall be given on each side, for the ships which shall be dispatched to carry the news of it to the respective possessions of the three powers.

ART. II. His most Christian majesty renounces all pretension which he has heretofore formed, or might have formed, to Nova Scotia, or Acadia, in all its parts, and guaranties the whole of it, with all its dependencies, to the King of Great Britain: moreover, his most Christian majesty cedes and guaranties to his said Britannic majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands in the gulph and river of St. Lawrence, without restriction, and without any liberty to depart from this cession and guaranty, under any pretence, or to trouble Great Britain in the possessions above mentioned: his Britannic majesty, on his side, agrees to grant to the inhabitants of Canada the liberty of the Catholic religion: he will, in consequence, give the most exact and the most effectual orders that his new Roman Catholic subjects may profess the worship of their religion, according to the rights of the Roman church, as far

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as the laws of Great Britain permit: his Britannic majesty further agrees, that the French inhabitants, or others, who would have been subjects of the most Christian king in Canada, may retire in all safety and freedom wherever they please; and may sell their estates, provided it be to his Britannic majesty's subjects, and transport their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except debts or criminal prosecutions: the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the ratification of the definitive treaty.

ART. III. The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the 13th Article of the treaty of Utrecht, which Article shall be confirmed and renewed by the approaching definitive treaty except what regards the island of Cape Breton, as well as the other islands in the mouth and in the gulph of St. Lawrence: and his Britannic majesty consents to leave to the most Christian king's subjects the liberty to fish in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said gulph of St. Lawrence; and as to what relates to the fishery out of the said gulph, his most Christian majesty's subjects shall not exercise the fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton.

ART. IV. The King of Great Britain cedes the islands of St. Peter and of Miquelon, in full right, to his most Christian majesty, to serve as a shelter for the French fishermen; and his said majesty obliges himself, on his royal word, not to fortify the said islands, to erect no buildings there, but merely for the conveniency of the fishery, and to keep there only a guard of fifty men, for the police.

ART. V. The town and port of Dunkirk shall be put into the state fixed by the last treaty of Aix-la-Chapelle, and by former treaties; the cunette shall remain as it now is, provided that the English engineers named by his Britannic majesty, and received at Dunkirk by order of his most Christian majesty, verify that this cunette is only of use for the wholesomeness of the air, and the health of the inhabitants.

ART. VI. In order to re-establish peace on the most solid and lasting foundations, and to remove for ever every subject of dispute, with regard to the limits of the British and French territories on the continent of America; it is agreed, that for the future, the confines between the dominions of his Britannic majesty and those of his most Christian majesty, in that part of the world, shall be irrevocably fixed, by a line drawn along the middle of the river Mississippi, from its source, as far as the river Iberville; and from thence, by a line drawn along the middle of this river, and of the lakes Maurepas and Pontchartrain, to the sea; and to this purpose the most Christian king cedes in full right and guaranties to his Britannic majesty the river and port of Mobile, and every thing that he possesses, or ought to have possessed, on the left side of the river Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France, provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea; and that part expressly which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth: it is further stipulated, that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations in favour of the inhabitants of Canada, inserted in the second Article, shall also take place with regard to the inhabitants of the countries ceded by this Article.

ART. VII. The King of Great Britain shall restore to France the islands of Guadaloupe, of Mariegalante, of Desirade, of Martinico, and of Belleisle; and the fortresses of these islands shall be restored in the same condition they were in when they were conquered by the British arms, provided that the term of eighteen months, to be computed from the day of the ratification of the definitive treaty, shall be granted to his Britannic majesty's subjects, who may have settled in the said islands, and other places restored to France by the definitive treaty, to sell their estates, recover their debts, and to transport their effects, as well as their persons, without being restrained on account of their religion,

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or under any other pretence whatsoever, except that of debts or of criminal prosecutions.

ART. VIII. The most Christian king cedes and guaranties to his Britannic majesty, in full right, the islands of Grenada and the Grenadines, with the same stipulations in favour of the inhabitants of this colony, as are inserted in the second Article for those of Canada; and the partition of the islands called Neutral is agreed and fixed; so that those of St. Vincent, Dominica, and Tabago, shall remain in full right to England; and that that of St. Lucia shall be delivered to France, to enjoy the same in like manner, in full right: the two crowns reciprocally guarantying to each other the partition so stipulated.

ART. IX. His Britannic majesty shall restore to France the island of Goree, in the condition it was in when conquered; and his most Christian majesty cedes, in full right, and guaranties to the king of Great Britain, Senegal.

ART. X. In the East Indies, Great Britain shall restore to France the several comptoirs which that crown had on the coast of Coromandel, as well as on that of Malabar, and also in Bengal, at the commencement of hostilities between the two companies, in the year 1749, in the condition in which they now are, on condition that his most Christian majesty renounces the acquisitions which he has made on the coast of Coromandel since the said commencement of hostilities between the two companies, in the year 1749.

His most Christian majesty, on his side, shall restore all that he shall have conquered from Great Britain in the East Indies, during the present war; and he also engages not to erect any fortifications, or to keep any troops, in Bengal.

ART. XI. The island of Minorca shall be restored to his Britannic majesty, as well as Fort St. Philip, in the same condition they were in when they were conquered by the arms of the most Christian king; and with the artillery that was there at the taking of the said island and of the said fort.

ART. XII. France shall restore all the countries belonging to the electorate of Hanover, to the landgrave of Hesse, to the duke of Brunswick, and to the count of La Lippe Buckebourg, which are or shall be occupied by the arms of his most Christian majesty; the fortresses of these different countries shall be restored in the same condition they were in when they were conquered by the French arms; and the pieces of artillery which shall have been carried elsewhere, shall be replaced by the same number, of the same bore, weight, and metal: as to what regards hostages exacted or given during the war, to this day, they shall be sent back without ransom.

ART. XIII. After the ratification of the preliminaries, France shall evacuate, as soon as it can be done, the fortresses of Cleves, Wesel, and Gueldres, and, in general, all the countries belonging to the king of Prussia; and, at the same time, the British and French armies shall evacuate all the countries which they occupy, or may then occupy, in Westphalia, Lower Saxony, on the Lower Rhine, the Upper Rhine, and in all the empire; and each shall retire into the dominions of their respective sovereigns: and their Britannic and most Christian majesties further engage and promise not to furnish any succour of any kind to their respective allies, who shall continue engaged in the present war in Germany.

ART. XIV. The towns of Ostend and Nieuport shall be evacuated by his most Christian majesty's troops, immediately after the signature of the present preliminaries.

ART. XV. The decision of the prizes made on the Spaniards by the subjects of Great Britain in time of peace, shall be referred to the courts of justice of the Admiralty of Great Britain, conformably to the rules established among all nations, so that the validity of the said prizes between the British and Spanish nations shall be decided and judged according to the law of nations, and according to treaties, in the courts of justice, of the nation who shall have made the capture.

ART. XVI. His Britannic majesty shall cause all the fortifications to be demolished which his subjects shall have erected in the bay of Honduras, and other places of the territory of Spain in that part of the world, four months after the ratification of the definitive treaty: and his Catholic majesty shall not, for the future, suffer the subjects of his Britannic majesty, or their workmen, to be disturbed or molested, under any pretence whatsoever, in their occupation of cutting, loading, and carrying away logwood; and for this purpose they may build without hindrance, and occupy without interruption, the houses and magazines necessary for them, for

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their families, and for their effects; and his said Catholic majesty assures to them, by this article, the entire enjoyment of what is above stipulated.

ART. XVII. His Catholic majesty desists from all pretension which he may have formed to the right of fishing about the island of Newfoundland.

ART. XVIII. The King of Great Britain shall restore to Spain all that he has conquered in the island of Cuba, with the fortress of the Havannah; and that fortress, as well as all the other fortresses of the said island, shall be restored in the same condition they were in when they were conquered by his Britannic Majesty's arms.

ART. XIX. In consequence of the restitution, stipulated in the preceding article, his Catholic majesty cedes and guaranties, in full right to his Britannic majesty, all that Spain possesses on the continent of North America, to the east, or to the south-east of the river Mississippi; and his Britannic majesty agrees to grant to the inhabitants of this country, above ceded, the liberty of the Catholic religion: he will, in consequence, give the most exact, and the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Roman Church, as far as the laws of Great Britain permit. His Britannic majesty farther agrees, that the Spanish inhabitants, or others, who would have been subjects of the Catholic king, in the said countries, may retire in all safety and freedom wherever they please, and may sell their estates, provided it be to his Britannic majesty's subjects, and transport their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except debts or criminal prosecutions: the term limited for this emigration being fixed to the space of 18 months, to be computed from the day of the ratification of the definitive treaty. It is further stipulated, that his Catholic majesty shall have power to cause all the effects that belong to him, either artillery or others, to be carried away.

ART. XX. The king of Portugal, his Britannic majesty's ally, is expressly included in the present preliminary articles, and their most Christian and Catholic majesties engage to re-establish the ancient peace and friendship between them and his most Faithful majesty: and they promise,

1. That there shall be a total cessation of hostilities between the crowns of Spain and Portugal, and between the Spanish and French troops on the one side, and the Portuguese troops, and those of their allies, on the other, immediately after the ratification of these preliminaries: and that there shall be a like cessation of hostilities between the respective forces of the most Christian and Catholic kings on the one part, and those of the most Faithful king on the other, in all other parts of the world, as well by sea as by land; which cessation shall be fixed on the same epochs, and under the same conditions, as that between Great Britain, France, and Spain, and shall continue till the conclusion of the definitive treaty between Great Britain, France, Spain, and Portugal.

2. That all his most Faithful majesty's fortresses and countries in Europe, which shall have been conquered by the Spanish and French armies, shall be restored in the same condition they were in when they were conquered: and that with regard to the Portuguese colonies in America, or elsewhere, if any change shall have happened in them, all things shall be put again on the same footing they were before the present war; and the most Faithful king shall be invited to accede to the present preliminary articles as soon as shall be possible.

ART. XXI. All the countries and territories which may have been conquered, in any part of the world whatsoever, by the arms of their Britannic and most Faithful majesties, as well as by those of their most Christian and Catholic majesties, which are not included in the present articles, either under the title of cessions, or under the title of restitutions, shall be restored, without difficulty, and without requiring compensations.

ART. XXII. As it is necessary to assign a fixed epoch for the restitutions and the evacuations to be made by each of the high contracting parties, it is agreed that the British and French troops shall proceed immediately after the ratification of the preliminaries, to the evacuation of the countries which they occupy in the empire, or elsewhere, conformably to the 12th and 13th articles.

The island of Belleisle shall be evacuated six weeks after the ratification of the definitive treaty, or sooner, if it can be done.

Guadeloupe, Desirade, Mariegalante, Martinico, and St. Lucia, three months

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after the ratification of the definitive treaty, or sooner, if it can be done.

Great Britain shall likewise, at the end of three months after the ratification of the definitive treaty, or sooner, if it can be done, enter into possession of the river, and of the port of Mobile, and of all that is to form the limits of the territory of Great Britain on the side of the river Mississippi, as they are specified in the sixth Article.

The island of Goree shall be evacuated by Great Britain three months after the ratification of the definitive treaty; and the island of Minorca by France at the same epoch, or sooner, if it can be done. And, according to the conditions of the fourth Article, France shall also enter into possession of the islands of St. Peter and of Miquelon at the end of three months.

The comptoirs, in the East Indies, shall be restored six months after the ratification of the definitive treaty, or sooner, if it can be done.

The island of Cuba, with the fortress of the Havannah, shall be restored three months after the ratification of the definitive treaty, or sooner, if it can be done; and at the same time Great Britain shall enter into possession of the country ceded by Spain, according to the 19th Article.

All the fortresses and countries of his most Faithful majesty in Europe shall be restored immediately after the ratification of the definitive treaty: and the Portuguese colonies which may have been conquered, shall be restored in the space of three months in the West Indies, and of six months in the East Indies, after the ratification of the definitive treaty, or sooner, if it can be done.

In consequence whereof the necessary orders shall be sent by each of the high contracting parties, with reciprocal passports for the ships which shall carry them, immediately after the ratification of the definitive treaty.

Art. XXIII. All the treaties, of what nature soever, which existed before the present war, as well between their Britannic and most Christian majesties as between their Britannic and Catholic majesties, as also between any of the above named powers and his most Faithful majesty, shall be, as they are in effect, renewed and confirmed in all their points, which are not derogated from by the present preliminary Articles, notwithstanding whatever may have been stipulated to the contrary by any of the high contracting parties: and all the said parties declare, That they will not suffer any privilege, favour, or indulgence to subsist, contrary to the treaties above confirmed.

Art. XXIV. The prisoners made respectively by the arms of their Britannic, most Christian, Catholic, and most Faithful majesties, by land and by sea, shall be restored reciprocally, and *bonâ fide*, after the ratification of the definitive treaty, without ransom, paying the debts they shall have contracted during their captivity; and each crown shall respectively pay the advances which shall have been made for the subsistence and maintenance of their prisoners, by the sovereign of the country where they shall have been detained, according to the receipts and attested accounts, and other authentic titles, which shall be furnished on each side.

Art. XXV. In order to prevent all causes of complaints and disputes which may arise on account of ships, merchandizes, and other effects, which may be taken by sea, it is reciprocally agreed, that the ships, merchandizes, and effects, which may be taken in the Channel, and in the North seas, after the space of 12 days, to be computed from the ratification of the present preliminary articles, shall be reciprocally restored on each side.

That the term shall be six weeks for the prizes taken from the Channel, the British seas, and the North seas, as far as the Canary islands, inclusively, either in the ocean, or in the Mediterranean.

Three months from the said Canary islands, as far as the equinoctial line, or equator.

Lastly, Six months beyond the said equinoctial line, or equator, and in all other parts of the world, without any exception, or other more particular distinction of time and place.

Art. XXVI. The ratifications of the present preliminary articles shall be expedited in good and due form, and exchanged the space of one month, or sooner, if it can be done, to be computed from the day of the signature of the present Articles.

In witness whereof, We the underwritten ministers plenipotentiary of his Britannic majesty, of his most Christian majesty, and of his Catholic majesty, in virtue of our respective full powers, have signed the present preliminary Articles, and have caused the seal of our arms to be

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put thereto. Done at Fontainebleau the 3d day of November 1762.

(L. S.) BEDFORD, C. P. S.
(L. S.) CHOISEUL, Duc de Praslin.
(L. S.) El Marquis de GRIMALDI.

Translation of a DECLARATION signed at Fontainebleau the 3d of November 1762, by the French Plenipotentiary, relating to the Thirteenth Article of the Preliminaries.

His most Christian mnjesty declares, That in agreeing to the 13th Article of the Preliminaries, signed this day, he does not mean to renounce the right of acquitting his debts to his allies; and that the remittances which may be made on his part, in order to acquit the arrears that may be due on the subsidies of preceding years, are not to be considered as an infraction of the said Article.

In witness whereof, I, the underwritten minister plenipotentiary of his most Christian majesty, have signed the present Declaration, and have caused the seal of my arms to be put thereto. Done at Fontainebleau, the 3d day of November 1762.

(L. S.) CHOISEUL, Duc de Praslin.

*Debate in the Lords on the Preliminary Treaty of Peace with France and Spain.**] December 9. The order of the day being read, for taking into consideration the Preliminary Articles of Peace, signed at Fontainebleau, November 3rd, 1762, by the plenipotentiaries of Great Britain, France, and Spain; and the Declaration signed at Fontainebleau, the 3rd of November, 1762, by the French plenipotentiary, relating to the 13th Article of the Preliminaries; which were laid before the House, by his Majesty's command, on the 29th of November. The said Preliminary Articles and Declaration were read.

Lord Wycombe then moved an Address of Thanks to his Majesty. Many objections were made, and some severe reflections thrown out against the earl of Bute, with appearances of heat and animosity. That nobleman defended his own conduct with temper and decorum, in a well connected speech, delivered with great propriety, to the surprise of many, who did not think him so well qualified in the art and faculty of elocution. He gave a detail of the negociation, and not only avowed himself a warm promoter of the peace, but even expressed a desire that his having contributed to the cessation of hostilities should be engraved on his tomb. He was seconded by the earl of Halifax, and supported by a great majority.*

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* NOTES of the Earl of HARDWICKE's Speech in the House of Lords, on the Preliminaries of Peace, December 9, 1762. From the Original, in the noble and learned lord's hand-writing.

I am sorry for the occasion of this day's debate. I was in hopes that after so successful a war, particularly the glorious successes of the present year, such a plan of peace would have been produced, as would have united the opinions of all well-intentioned men—that in proceeding upon it, nothing would have been done or attempted, that was rash or precipitate, or would have tended to disgust any persons by *the manner*, who were disposed in general to agree in *the substance*.

There is one part of this motion, in which I can most heartily concur—the dutiful professions and assurances given to his Majesty.

Convinced, from the bottom of my heart, that no prince ever ascended the throne with more virtuous and public-spirited dispositions; —with greater love for his people, and zeal for thier happiness;—with greater purity of mind, and uprightness of heart;—untainted even with a wish for any hurtful power; nay, filled with a detestation of it.

Frequent occasions of approaching his royal person, every instance of which has afforded proofs of it.

But that is not the business-part of this Address;—What is demanded of your lordships is to approve of and applaud these preliminaries in the gross, without being capable of thoroughly understanding all the particular parts, or having proper lights for that purpose.

It is not unknown to several of your lordships who hear me, that I have been a party to many, very many, considerations upon this subject. I never declined giving my opinion upon it with freedom and integrity in another place; neither will I decline it now in this House, the only place at present left to me to give such an opinion in.

So far as I then went, I have seen no reason to change my opinion, weak as it was; and, in what I shall do or say here, I will not contradict myself.

Many parts of the plan of peace contained in these preliminaries, and those possibly some of

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* "December 4, 1762. I am informed that the strong opposition to the peace will be in the House of Lords, though I cannot well conceive it; nor can I make out above six or seven who will be against it upon a division, unless (which I cannot suppose) some of the bishops should vote on the side of their maker." Lord Chesterfield to his Son.

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The Lords' Address on the Preliminary Articles of Peace.] The following is the Address agreed to:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, beg leave to return your Majesty our sincerest acknowledgments, for the important communication which your Majesty has been graciously pleased to make to us of the Preliminary Articles of Peace, concluded

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the greatest lines of it, I have approved, and to those I adhere.

Not but that I could have wished not to have seen the necessity of going so far; but I was convinced of the expediency, the desirableness, the utility of peace to my country, and to that conviction I yielded. I have wished also, I wished from my soul, that advantage had been taken of the successes of the last year,—successes almost *præter spem*—to have varied, to have abated, some part even of these concessions.

Look round the globe—all the French sugar islands taken from them except St. Domingo.

All—in a manner all, the dominions of the King and his allies in Germany, recovered out of their hand, before those Articles were settled; so that they had nothing material left to put in compensation for what we have given up.

The important fortress and city of the Havannah, that key and barrier of the Spanish West Indies, thought by them to be impregnable, and without which they cannot exist, most gloriously conquered—[Stop a little, and here do justice to lord Anson]—This not only an immense and insurmountable loss to Spain, but a pressing distress upon France herself.

France derives great advantages from that Spanish commerce.

Under a necessity to relieve her ally from this prodigious loss; an ally, whom but the last year she had drawn in to save herself from destruction; unless she would lose that ally for ever.

But I do not see that the least advantage has been made of this situation, in respect of France.

I go further: if no concessions could be obtained from France by force of this conquest, surely it was the strongest reason why no new concessions should be made in her favour.

But I fear that is the case.

Several very material points given up to France, which I never heard of till just before the preliminaries were signed, nor were ever fully explained, till they came over actually signed.

1. Saint Lucia given up. [Enforce the importance of this island in our present circumstances.]

2. The British commissary to be resident at Isle St. Pierre departed from, though before fully agreed to by France. [Explain that.]

3. Article 10, about the East Indies, [Explain that.] Great Britain is "to restore to France the several comptoirs," &c. What is the meaning of the word "comptoir?" Nothing so uncertain. It comprises single houses of trade, or even towns. Chandernagor, a place we conquered, M. Dupleix always calls a "comptoir;" yet it had a large district—what he calls 5 *loges*, under it. [Q. Villenour and Bahour granted in 1749, with 80 villages, rent per ann. 96,000 rupees.]

The French East India trade, as a trade, restored to the same state as before the war.

4. The Spanish part of these preliminaries; perhaps the best. Art. 16. But in that great uncertainty and great defects. [Observe upon it.] 1. Fortifications to be demolished. 2. The term "Occupation" unusual and new: no acknowledgment of a right, privilege or usage. No words of perpetuity.

5. Article 13. Relates to our allies in Germany, and in particular to the king of Prussia. All his places and countries conquered by France are to be evacuated as soon as it can be done after the ratification of the Preliminaries.

This may look well to common readers; but fallacious—no restitution.

The distinction is plainly pointed out by the very next precedent Article—France is to *restore* all the countries belonging to the elector of Hanover and the landgrave of Hesse: this chicane used by France in the last negociation.

France has said she only lent her troops to the empress queen to garrison these places;—that the possession is hers.

What a farce of an evacuation will this be, for the borrowed garrisons of France to march out, and *eo instante* the troops of the empress queen, or of Saxony in the pay of France, to march in?

How will the good faith of the crown of Great Britain be maintained in this instance?

I do not go upon the Article in the ancient treaties with the king of Prussia. I admit all these to be but temporary.

But the third Article of the Treaty of the 16th of January 1756, is certainly in force. That is a general guaranty of all the king of Prussia's dominions to him; and is not that infringed by our being, in effect, parties to the giving up his towns into the hands of his enemy?

Lord Bute *obj.*: Double guaranty to the empress queen, and the king of Prussia. They two at war; before you take part with either, you must determine which was the aggressor.

Ans. (perme.) True proposition; but does not apply to this case. These towns and territories were not the empress queen's at the time of the guaranty given, not so now: only the possession delivered over by France.

This act to be done as soon as possible after the ratification of the Preliminaries.

The ratification by England was, as I take

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the 3rd day of last month, at Fontainebleau, with the crowns of France and Spain.

"And to express, in the most dutiful manner, to your Majesty, the satisfaction which we have received at the foundation laid by these Articles for a Treaty of Peace, which will greatly redound to your Majesty's honour, and the real benefit of your kingdoms; and our entire reliance, that the same care and attention will be shewn for the perfecting of this great work by the Definitive Treaty.

"We think it our indispensable duty to

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it, the last, and I think that was on the 26th or 27th of last month.

We are now at the 9th of December—near a fortnight has passed and nothing done. I do not mean to complain of that as a delay; it is none. But what I complain of is the precipitation here.

Before this consideration had been brought on in parliament, I should have been glad to have had this experiment made of the *bonâ fides* of France in this Treaty. To have seen whether they would have evacuated fairly, or collusively.

Another part of this Article—"No succours to allies on either side."

But by the Declaration annexed, France is left at liberty to pay all arrears of subsidies to her allies.

No specification, or even the most general allusion to the amount—No declaration what the quantum of the annual subsidies stipulated by their treaties is.

May furnish what supplies of money they please; no possibility of taking the account, or finding out an infraction of this Article.

Upon this part a general and very melancholy observation arises.—By this desertion of the king of Prussia, we are left without any system or connection at all upon the continent.

The court of Vienna remains in the hands of France.

The king of Prussia thrown off from us by our own act.

All the improvement of the change in Russia—to form a system in conjunction with these two powers, has been totally neglected.

Nobody more averse than I am to Great Britain mixing voluntarily or wantonly, or unnecessarily, in the affairs of the continent. But it is absurd, and a solecism in politics, to say that a commercial country, a nation of such extensive and universal commerce, as this is, can subsist without some system greater or less, upon the continent of Europe.

Under these circumstances your lordships are pressed to approve the totality of these Preliminaries; without any information; without any lights; without any papers, to enable you to judge whether they are right or wrong; to enable you to know what instructions have been given; how far our demands have been pushed to obtain better terms.

I defy any instance to be produced, wherein the most ductile parliament in former times, has taken such a precipitate step.

Upon this I beg leave to make, and to dilate a little upon, two general observations.

1. This is the first instance that I know of wherein preliminaries, signed and ratified, have been laid before a House of Parliament, and their general approbation demanded to them.

1st. Is the approbation to be absolute to all and every part as the terms stand in these articles?

That is too much—they are in their nature only Heads or Notes of a Treaty; to be explained, extended, or restrained, by a Definitive Treaty.

That is to be the solemn contract between the two nations, and without it, in this case, this sett of Articles will be waste paper.—And this notwithstanding the unprecedented stipulation in the first Article—that a sincere friendship and union shall be re-established between the two nations as soon as these Preliminaries shall be signed and ratified.—No such article ever in any Preliminary Treaty before.

All the restitutions and cessions refer to the Definitive Treaty—not to be made till certain periods after a Definitive Treaty ratified.

2nd. Is the Parliament to judge of these Preliminaries, article by article, and propose variations or additions?

God forbid! No peace will ever be made that way. 'Tis the prerogative of the crown to make war and peace—The ministers of the crown are to act in it at their peril.—I carry it no further—the peril of their discretion.

But the crown has not yet executed that prerogative—no Definitive Treaty is made, consequently no peace is made. Too early for Parliament to interpose.

2 *Obj.* Suppose your lordships should give the strong approbation and applause asked of you by this question.

I know it will be said, you will by that strengthen the hands of the administration in making the Definitive Treaty.

But I assert the direct contrary. I do not say it affectedly, and to maintain the proposition of a day; but I am really and seriously of opinion, that you will weaken the hands of the administration to do that right to the king, and to their country, in making the Definitive Treaty, which I have so good an opinion of them as to think they would wish to do.

I have already said, that these Articles are but Notes, Minutes or Heads of a Treaty to be made.

In forming a Definitive Treaty, several things to be ascertained, explained, extended; —material, perhaps essential circumstances to be added; possibly some particulars to be varied for the benefit of this country.

All courts know under what situation an English ministry treats with them.

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lay before your Majesty this early testimony of our warmest gratitude; seeing the great object of the war so fully answered, all proper attention shewn to your Majesty's allies, a vast extent of empire added to the British crown, new sources opened for the trade and manufactures of this nation, and stability and duration insured, under the blessing of Providence, to those great and national advantages.

"We are no less sensible of the prudence and wisdom which have guided your Majesty's conduct on this great occasion, than of the humane disposition and paternal affection to your subjects, which your Majesty has shewn in putting a safe and honourable end to a burthensome and expensive war.

"We beg leave to assure your Majesty, that we shall immediately apply ourselves to improve the blessings of peace, by promoting that œconomy which your Majesty has wisely recommended, and which is so necessary to the dignity of the crown, and the prosperity of these your kingdoms."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I return you thanks for this very dutiful Address. The satisfaction which you express in the points agreed by the Preliminary Articles towards a final pacification, is very acceptable to me. In what remains to be done, you may depend upon the utmost care and attention, on my part, to settle every thing which concerns the interests of my kingdoms upon a solid and durable foundation."

Debate in the Commons on the Preliminary Treaty of Peace with France and Spain.] December 9. The order of the day being read, for taking into consideration the Preliminary Articles of Peace, signed at Fontainebleau, November 3rd, 1762, and Declaration; a motion was made, and the question being put, That this House do resolve itself into a committee of the whole House, to take the said Preliminary Articles and Declaration into consideration; it passed in the negative.

Then the House proceeded to take the said Preliminary Articles and Declaration into consideration; and the same were again read.

Mr. *Fox* rose, and after defending the peace at considerable length, concluded with moving,

"That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his gracious condescension in ordering to be laid before us the Preliminary Articles of Peace, concluded between his Majesty on the one part, and their most Christian and Catholic majesties on the other: to assure his Majesty that we have considered them with our best attention, and although to make peace and war be his Majesty's just and undoubted prerogative, yet knowing how agreeable it must be to his royal mind, to be informed of the grateful sense his people entertain of the justice and wisdom of his measures, and of his unwearied attention to their welfare, his faithful Commons were impatient to express to his Majesty their approbation of the advantageous terms upon which his Majesty hath concluded Preliminary Articles of Peace: and to lay before his Majesty the hearty applause of a faithful, affectionate, and thankful people.

"That while we admire his Majesty's prudence, in availing himself of the successes with which Divine Providence hath blessed his arms, whereby his Majesty

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Under the inspection and animadversion of Parliament.

This is a shield of defence to them against many demands—a weapon in their hands to enforce others.

If they are able to say, "We cannot do this or that—the Parliament will not support us:"—a power, that wants a peace from you, which is now the case of France—will give great attention to that argument.

They will feel the necessity a British ministry is under, and know they are in earnest.

Several material things may arise in framing this Definitive Treaty.

For instance, suppose you want to change the epoch, or any other point, in the article about the East Indies—Several that hear me know whether any orders of that nature are gone to France or not—I am sure I do not know.

There may be others—perhaps to correct the looseness of the evacuation of the king of Prussia's territories; &c. But if the parliament should approve in gross, as it stands, can you expect to succeed in any such demand?

The noble and great person, who is now his majesty's ambassador in France, will talk to the wind. The French ministers will laugh in your face, and tell you,—You are not in earnest in this—your Parliament, and they will add, the British nation, have absolutely approved all these Articles, as they stand in this paper—can you have a greater sanction? What colour have you to ask any variation?

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hath procured such solid, and, in all human probability, such permanent advantages for this nation, we are no less sensibly affected with that humane disposition which induced his Majesty to put an end to a long, bloody, and expensive war.

"That we will take the earliest opportunity to examine into the state of the public revenues, in order to establish the best œconomy for the future, so wisely recommended by his Majesty, and so necessary to maintain the kingdom of Great Britain in that great and respectable situation in which his Majesty's fortitude and wisdom have now placed us.

"That we are convinced that posterity, from their own experience, will hereafter agree with us, in esteeming that peace to be no less honourable than profitable, by which there will be ceded to Great Britain such an addition of territory, attended with so great an extension of our commerce.

"That we, therefore, beg leave humbly to lay before his Majesty the strongest sentiments of gratitude; and to assure his Majesty, that it shall be our study to improve that confidence of the people in his Majesty, which his Majesty hath already so very deservedly acquired from his conduct in the present most important conjuncture."

Mr. *Pitt** rose in reply to Mr. Fox. He began with lamenting his ill state of health, which had confined him to his chamber; but although he was at this instant suffering under the most excruciating torture, yet he determined, at the hazard of his life, to attend this day, to raise up his voice, his hand, and his arm, against the preliminary articles of a treaty, that obscured all the glories of the war, surrendered the dearest interests of the nation, and sacrificed the public faith by an abandonment of our allies. He owned, that the terms upon which he had consented to conclude a peace, had not been satisfactory to all persons; it was impossible to reconcile every interest; but he had not, he said, for the mere attainment of peace, made a sacrifice of any conquest; he had neither broken the national faith, nor betrayed the allies of the crown. That he was ready to enter into a discussion of the merits of the peace he had offered, comparatively with the present preliminaries. He called for the most able casuist amongst the minister's friends, who, he saw, were all mustered and marshalled for duty, to refute him; they made a most gallant appearance, and there was no doubt of the victory on the main question. If the right hon. gentleman, (Mr. Fox) who took the lead in this debate, would risk the argument of comparison, he would join issue with him, even under all the disadvantages of his present situation. His motive was to stop that torrent of misrepresentation, which was poisoning the virtue of the country. [No answer being made, he proceeded.†]

* "The disgusted party who were lately gone out, because the favourite did not chuse to accept of their service, were so infatuated with a lust of power, and cast so many longing looks towards the offices from which they had been precipitately driven, that a great number of them slunk away, when the merits of the Butean preliminaries came under examination. Some feigned sickness, others ran out of town, and many more had not even the shadow of excuse for their scandalous desertion upon this important occasion. But Mr. Pitt, to his great honour, although he had been for some time confined to his bed by a severe fit of the gout, came down to the House, and spoke near three hours in this debate. He gave his opinion upon almost every article; some of which he approved, and others he condemned; but his greatest emphasis was laid on what related to the fishery; because, in the negociation with M. Bussy, lord Temple and himself had contended for the whole exclusive fishery; but in that, as well as in many other things, they were over-ruled: and, upon the whole, he insisted, that the terms proposed, were inadequate to the conquests, and just expectations of the nation. He was so infirm, and so afflicted with pain, that when he could no longer stand, although supported by his friends, he was allowed to deliver the remainder of his sentiments sitting; yet he was, by extreme illness, obliged to retire before the division." History of the Minority, p. 83.

† The following PAPER will, in some degree, supply this chasm:

Mr. Pitt's Negociation.

Mr. *Pitt*, and all the King's servants, insisted, "That the French shall abstain from that particular fishery, on all the coasts appertaining to Great Britain, whether on the continent, the islands situated in the said Gulph of St. Lawrence; which fishery the proprietors only of the said coasts have constantly enjoyed,

Lord Bute's Peace

Gives the French "The liberty to fish in the Gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery, but at the distance of three leagues from all the coasts belonging to Great Britain, and fifteen leagues from the coast of the island of Cape Breton; together with the liberty of fish-

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He perceived, he said, that the right hon. gentleman and his friends, were prepared for only the present question. He would, therefore, take a view of the Articles.

and always exercised, saving always the privilege granted by the 13th article of the treaty of Utrecht."

Mr. *Pitt* absolutely refused to cede the island of Miquelon to the French, and the French minister told Mr. Stanley, "He would not insist on it." To the cession of the island of St. Peter only, four indispensable conditions were annexed.—The cession of the island of St. Peter, as well as some others, was not agreeable to Mr. Pitt's own inclination; for it is a fact that both he and lord Temple earnestly contested for the whole exclusive fishery, which, they said, ought to be insisted upon. But in this, as many other things, they were overruled.

ing and drying on a part of the coast of the island of Newfoundland."

The island of St. Peter and Miquelon are both ceded to the French, in full right, without any one of the four indispensable conditions. No English commissary is allowed to reside there; our security is on the present French king's royal word, but not a syllable is mentioned of any engagement for his successors.

Mr. *Pitt* insisted on keeping both Senegal and Goree, on the coast of Africa, "For that Senegal could not be securely maintained without Goree;" and M. Bussy "was authorised to consent to the cession."

Lord *Bute* gave away the island of Goree, which was of the greatest importance to France, as it serves her as a security in the supply of negroes for the French West Indies.

Mr. *Pitt* positively refused to cede the island of St. Lucia to France. His negociation declares "the cession by no means admissible."

Lord *Bute* ceded St. Lucia in full right to France.

Mr. *Pitt* treated the king of Prussia with efficacy and good faith. The answer to the French Ultimatum says, "As to what regards the restitution and evacuation of the conquests made by France on the King's allies in Germany, and particularly of Wesel, and other territories of the king of Prussia, his Majesty persists in his demand relative to that subject, in the *ultimatum* of England, viz. That they be restored and evacuated." The French having proposed the keeping possession of the countries belonging to the king of Prussia, Mr. Pitt returned this answer in writing, which was applauded by all the King's ministers:—"I likewise return you, as totally inadmissible, the memorial relative to the king of Prussia, as implying an attempt on the honour of Great Britain, and the fidelity with which his Majesty will always fulfil his engagements with his allies."

Lord *Bute* both deceived and betrayed the king of Prussia. He first broke the faith of the nation, by refusing the subsidy to that monarch; then in the preliminary articles of peace, he stipulated evacuation and restoration with regard to the conquests made on our allies, except the king of Prussia, for whom he stipulated evacuation only. All the conquests which the French were in possession of belonging to Hanover, Hesse, Brunswick, &c. amounted to only a few villages, not exceeding one hundred acres of land in the whole. But the places belonging to the king of Prussia, of which the French were in possession, were Cleves, Gueldres, Wesel, &c. Thus lord Bute, instead of behaving to the king of Prussia with good faith, becoming an ally, acted like an open enemy to him, and left the French at full liberty to evacuate those places, and all others which they held belonging to that monarch, to whom they pleased. And lastly, he said, the dominions of the king of Prussia "were to be scrambled for." That was his phrase in the House of Lords.—And it was very near being the case; for as soon as the Treaty was signed, the court of Vienna ordered a large body of troops to begin their march for the Netherlands, with a view to enter those places the moment the French should evacuate them. The king of Prussia did the same. The Netherlands were thus threatened with becoming the theatre of war; and the French minister foreseeing that France must take part in it, he proposed to the king of Prussia to deliver up all those places to him, provided his majesty would sign a neutrality for the Netherlands. The king agreed to the proposal, and purchased his territories on that condition.

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ticles, as they appeared upon the paper, on the table.

[Mr. Pitt was so excessively ill, and his pain so exceedingly acute, that the House unanimously desired, he might be indulged to deliver his sentiments sitting; a circumstance that was unprecedented. Hitherto he had been supported by two of his friends.*]

The first important Article was the Fishery. The terms in which this article was written, appeared to him to give to France a grant of the whole fishery. There was an absolute unconditional surrender of the islands of St. Pierre and Miquelon, which, if France continued to be as attentive to her own interest, as we have hitherto found her, would enable her to recover her marine. He considered this to be a most dangerous article, to the maritime strength and future power of Great Britain. In the negociation he had with M. Bussy, he had acquiesced in the cession of St. Pierre only; after having, he said, several times, in vain, contended for the whole exclusive fishery; but he was over-ruled; he repeated, he was over-ruled, not by the foreign enemy, but by another enemy. After many struggles, he obtained four limitations to the island of St. Pierre; they were indispensable conditions; but they were omitted in the present treaty. If they were necessary in the surrender of one island, they were doubly necessary in the surrender of two. In the volumes of abuse which had been so plentifully bestowed upon him, by the writers who were paid and patronized by those who held great employments in the state, this cession of Pierre only, had been condemned, in terms of acrimony. He had been reminded, that the earl of Oxford was impeached, for allowing the French liberty to fish and dry fish on Newfoundland. He admitted the fact. But that impeachment was a scandalous measure, was disapproved by every impartial person. In one article (the seventeenth) the minister is accused of having advised the destructive expedition against Canada*—Why was that expedition called destructive?—because it was not successful. Thus have events been considered by parliament as standards of political judgment. Had the expedition to Canada, under general Wolfe, been unsuccessful, there is no doubt it would also have been called destructive; and some of the gentlemen, now in office, would this day have been calling for vengeance upon the minister's head.

Of Dunkirk he said but little. The French were more favoured in this article of the present preliminaries, than they had been by any former treaty. He had made the treaty of Aix la Chapelle his guide on this point; but in the present treaty, even that requisition was disregarded.

Of the dereliction of North America by the French, he entirely approved. But the negociators had no trouble in obtaining this acquisition. It had been the *uti possidetis* in his own negociation, to which the French had readily consented. But Florida, he said, was no compensation for the Havannah; the Havannah was an important conquest. He had designed to make it, and would have done it some months earlier, had he been permitted to execute his own plans. From the moment the Havannah was taken, all the Spanish treasures and riches in America, lay at our mercy. Spain had purchased the security of all these, and the restoration of Cuba also, with the cession of Florida only. It was no equivalent. There had been a bargain, but the terms were inadequate. They were inadequate in every point, where the principle of reciprocity was affected to be introduced.

He had been blamed for consenting to give up Guadaloupe. That cession had been a question in another place, He wished to have kept the island; he had been over-ruled in that point also; he could not help it; he had been over-ruled many times, on many occasions—He had acquiesced, he had submitted. But at length he saw that all his measures, all his sentiments, were inimical to the new system; to those persons to whom his Majesty had given his confidence. But to Guadaloupe these persons had added

*"I remember two instances of the House's permitting members to speak sitting; one was Mr. Pitt, in his very long speech against the Peace of 1762: the other the lord mayor Crosby, before he was sent to the Tower; both on account of indisposition."——"Mr. Pitt spoke for three hours and forty minutes. This, at the time of the first publication of this volume, entitled me to call his speech "very long." The later practice (contrary to the recommendation of Cicero, *ut modo, ne sit infinitus; nam brevitas in sententia, senatoris magna laus est*") has rendered this epithet improper." Hatsell's Precedents, vol. 2, p. 101, edit. 1796.

* See Vol. 7, p. 114.

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the cession of Martinique. Why did they permit the forces to conquer Martinique, if they were resolved to restore it? Was it because the preparations for that conquest were so far advanced, they were afraid to countermand them? And to the cession of the island of Cuba, Guadaloupe, and Martinique, there is added the island of St. Lucia; the only valuable one of the neutral islands. It is impossible, said he, to form any judgment of the motives which can have influenced his Majesty's servants to make these important sacrifices. They seem to have lost sight of the great fundamental principle, that France is chiefly, if not solely, to be dreaded by us in the light of a maritime and commercial power. And therefore, by restoring to her all the valuable West-India islands, and by our concessions in the Newfoundland fishery, we had given to her the means of recovering her prodigious losses, and of becoming once more formidable to us at sea. That the fishery trained up an innumerable multitude of young seamen; and that the West India trade employed them when they were trained. After the peace of Aix-la-Chapelle, France gained a decided superiority over us in this lucrative branch of commerce, and supplied almost all Europe with the rich commodities which are produced only in that part of the world. By this commerce she enriched her merchants, and augmented her finances. The state of the existing trade in the conquests in North America, is extremely low; the speculations of their future are precarious, and the prospect, at the very best, very remote. We stand in need of supplies, which will have an effect, certain, speedy, and considerable. The retaining both, or even one of the considerable French islands, Martinico or Guadaloupe, will, and nothing else can effectually answer this triple purpose. The advantage is immediate. It is a matter not of conjecture, but of account. The trade with these conquests is of the utmost lucrative nature, and of the most considerable extent; the number of ships employed by it are a great resource to our maritime power: and what is of equal weight, all that we gain on this system, is made fourfold to us by the loss which ensues to France. But our conquests in North America are of very little detriment to the commerce of France. On the West Indian scheme of acquisition, our gain and her loss go hand in hand. He insisted upon the obvious connection of this trade with that of the colonies in North America, and with our commerce to the coast of Africa. The African trade would be augmented, which, with that of North America, would all center in Great Britain. But if the islands are all restored, a great part of the benefit of the colony trade must redound to those who were lately our enemies, and will always be our rivals. Though we had retained either Martinico or Guadaloupe, or even both these islands, our conquests were such, that there was still abundant matter left to display our moderation.

Goree, he said, is also surrendered, without the least apparent necessity; notwithstanding it had been agreed in the negociation with M. Bussy, that it should remain with the British crown, because it was essential to the security of Senegal.

In the East Indies there was an engagement for mutual restitution of conquests. He asked, what were the conquests which France had to restore? He declared that she had none. All the conquests which France had made had been retaken, and were in our own possession; as were likewise all the French settlements and factories. Therefore the restitution was all from one side. We retained nothing, although we had conquered every thing.

The restitution of Minorca he approved: and that, he said, was the only conquest which France had to restore; and for this island we had given the East Indies, the West Indies, and Africa. The purchase was made at a price that was fifty times more than it was worth. Belleisle alone, he affirmed, was a sufficient equivalent for Minorca.

As to Germany, he said, it was a wide field; a tedious and lengthened consideration, including the interests of many hostile powers; some of them immediately, and others eventually, connected with Great Britain. There might, sometimes, be policy in the construction of our measures, to consult our insular situation only. But while we had France for our enemy, it was a scene to employ, and to baffle her arms. Had the armies of France not been employed in Germany, they would have been transported to America; where we should have found it more difficult to have conquered them. And if we had succeeded, the expence would have been greater. Let any one, he said, make a fair estimate of the expence of transports and provisions to that distant climate, and he will find, in the article of expence, the

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war in Germany to be infinitely less than in the wilds of America. Upon this principle, he affirmed, that the conquests made in America, had been owing to the employment of the French army in Germany. He said, with an emphasis, that America had been conquered in Germany.

He owned, that several objections had been made to the German war. He thought them frivolous and puerile, factious and malicious. It had been said, that during twelve months after the Marathon of Minden, not a squadron of ships had been sent to make any British conquests: if this be true, will any man say, that France would, the day before the battle of Minden, have made those humiliating concessions she afterwards did make? To what but her ill success in the German war, was it owing, that she submitted to the most mortifying terms, in the late negociation with M. Bussy? These facts speak for themselves; and from them it appears, that the cessions offered by France, during the late negociation, which will always be remembered with glory to Great Britain, were owing to our perseverance in the German war, and to our observing good faith towards our Protestant allies on the continent.

Other objections had been made, and while he was upon the subject he would take notice of them. It had been said, that the French subsidies do not amount to half what we pay. The subsidies which the French actually pay, may not; but what they promise amount to double. They subsidize Sweden, Russia, and the Swisses, several Italian states, and, if we are to believe their own writers, even the Danes; those subsidies are most, or all of them, for negative services. They have got nothing by the Swedes; they have got nothing by the empress of Russia, though she has got a great deal for herself; they have got far less by the empress queen, if we except the honour of having buried above 150,000 of their best troops in Germany. The Wirtemberghers, it is well known, have refused to serve them, the Swiss and Italian states cannot serve them, and the Danes give them—a neutrality.

The subsidy to Hesse had been arraigned, and falshood had been added to malignity. But it ought to be remembered, that the treaty with Hesse was made before he came into office. An imputation of crime to him, for not breaking that alliance, came with a very ill grace from them who made it. They blamed him for consenting to pay the prince of Hesse a sum of money for the damage done by the French in his dominions. He was astonished that any set of men, who arrogated to themselves the distinction of friends to his present Majesty, should represent this circumstance as a crime. Can a people, he asked, who impeached the Tory ministry of queen Anne, for not supporting the Catalans at an expence that would have cost some millions, against their king, merely because they were our allies—can a people, who unanimously gave 100,000*l.* as a relief to the Portuguese, when under the afflicting hand of Heaven, merely because they were our allies—can a people who indemnify their American subjects, whom at the same time they protect in their possessions, and even give damages to their own publicans when they suffer, though in pursuance of our own acts of parliaments—can such a people cry aloud against the moderate relief to a prince, the ally and son-in-law of Great Britain, who is embarked in the same cause with Great Britain, who is suffering for her, who for her sake is driven from his dominions, where he is unable to raise one shilling of his revenue, and with his wife, the daughter of our late venerable monarch, is reduced to a state of exile and indigence? Surely they cannot. Let 'our munificence,' therefore, to such a prince, be never again repeated.

It had been exultingly said, that the present German war had overturned that balance of power which we had fought for in the reigns of king William and queen Anne. This assertion was so far from having the smallest foundation in truth, that he believed the most superficial observers of public affairs scarcely stood in need of being told, that that balance was overturned long before this war had existence. It was overturned by the Dutch before the end of the late war. When the French saw that they had nothing to apprehend from the Dutch, they blew up that barrier for which our Nassaus and Marlboroughs had fought. The Louvestein faction again got the ascendancy in Holland; the French monarchy again took the Dutch republic under its wings, and the brood it has hatched has—but let us forbear serpentine expressions. Since the time that the grand confederacy against France took place, the military power of the Dutch by sea and land has

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been in a manner extinguished, while another power, then scarcely thought of in Europe, has started up—that of Russia, and moves in its own orbit extrinsically of all other systems; but gravitating to each according to the mass of attracting interest it contains. Another power, against all human expectation, was raised in Europe in the House of Brandenburgh; and the rapid successes of his Prussian majesty prove him to be born to be the natural asserter of Germanic liberties against the House of Austria. We have been accustomed to look up with reverence to that House, and the phenomenon of another great power in Germany was so very new to us, that for some time he was obliged to attach himself to France. France and Austria united, and Great Britain and Prussia coalesced. Such are the great events by which the balance of power in Europe has been entirely altered since the time of the grand alliance against France. His late majesty so passionately endeavoured to maintain or revive the ancient balance, that he encountered at home, on that account, opposition to his government; and abroad, danger to his person: but he could not re-animate the Dutch with the love of liberty, nor inspire the empress queen with sentiments of moderation. They talk at random, therefore, who impute the present situation of Germany to the conduct of Great Britain. Great Britain was out of the question; nor could she have interposed in it, without taking a much greater share than she did. To represent France as an object of terror, not only to Great Britain but Europe, and that we had mistaken our interest in not reviving the grand alliance against her, was mere declamation. Her ruined armies now returning from Germany, without being able, through the opposition of a handful of troops, to effect any material object, is the strongest proof of the expediency of the German war.

The German war prevented the French from succouring their colonies and islands in America, in Asia, and in Africa. Our successes were uniform, because our measures were vigorous.

He had been blamed for continuing the expence of a great marine, after the defeat of M. Conflans. This was a charge that did not surprise him, after the many others which had been made, and which were equally unfounded and malignant. It was said, that the French marine, after that defeat, was in so ruinous a condition, there was not the least occasion for our keeping so formidable a force to watch its motions. It was true, he said, that the French marine was ruined—no man doubted it—they had not ten ships of the line fit for service: but could we imagine that Spain, who in a very short time gave him but too much reason to be convinced that his suspicions were well founded, was not in a common interest with France; and that the Swedes, the Genoese, and even the Dutch, would not have lent their ships for hire?

He begged pardon of the House for detaining them so long; he would detain them but a few minutes longer.

The desertion of the king of Prussia, whom he stiled the most magnanimous ally this country ever had, in the preliminary articles on the table, he reprobated in the strongest terms. He called it insidious, tricking, base, and treacherous. After amusing that great and wonderful prince, during four months, with promises of the subsidy, he had been deceived and disappointed. But to mark the inveteracy and treachery of the cabinet still stronger, he is selected from our other allies, by a malicious and scandalous distinction in the present articles. In behalf of the other allies of Great Britain, we had stipulated, that all the places belonging to them, which had been conquered, should be 'evacuated and restored:' but with respect to the places which the French had conquered belonging to the king of Prussia, there was stipulated 'evacuation' only. Thus the French might keep those places until the Austrian troops were ready to take possession of them. All the places which the French possessed belonging to the elector of Hanover, the duke of Brunswick, the landgrave of Hesse, &c., did not amount to more than ten villages, or about an hundred acres of land; but the places belonging to the king of Prussia they were in possession of, were Cleves, Wessel, Gueldres, &c.

Upon the whole, the terms of the proposed treaty met with his most hearty disapprobation. He saw in them the seeds of a future war. The peace was insecure, because it restored the enemy to her former greatness. The peace was inadequate, because the places gained were no equivalent for the places surrendered.

Mr. Pitt was so ill and faint, towards the end of his speech, that he could scarcely be heard. He intended to have spoken to some points relative to Spain,

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but he was unable. He spoke nearly three hours; and when he left the House, which was before the division, he was in the greatest agony of pain. *

The following are the principal Arguments which were offered in favour of the Treaty:

That the original object of the war was the security of our colonies upon the continent; that the danger to which these colonies were exposed, and, in consequence of that danger, the immense waste of blood and treasure which ensued to Great Britain, together with the calamities which were, from the same source, derived from the four quarters of the world, left no sort of doubt that it was not only our best, but our only policy, to guard against all possibility of the return of such evils. Experience has shewn us that while France possesses any single place in America, from whence she may molest our settlements, they can never enjoy any repose, and of course, that we are never secure from being plunged again into those calamities, from which we have at length, and with so much difficulty, happily emerged. To remove France from our neighbourhood in America, or to contract her power within the narrowest limits possible, is therefore the most capital advantage we can obtain, and is worth purchasing by almost any concessions. The friends of the ministry insisted that the absolute security derived from this plan, included in itself an indemnification: first, by saving us, more effectually than any other method could, from the necessity of another war, and consequently by giving us an opportunity of increasing our trade, and lowering our debt: secondly, by permitting our colonies on the continent to extend themselves without danger or molestation. They shewed the great increase of population in those colonies within a few years. They shewed that their trade with the mother country had uniformly increased with this population. That being now freed from the molestation of enemies and the emulation of rivals, unlimited in their possessions, and safe in their persons, our American planters would, by the very course of their natural propagation in a very short time, furnish out a demand of our manufactures as large as all the working hands of Great Britain could possibly supply. That there was therefore no reason to dread that want of trade which their adversaries insinuated, since North America alone would supply the deficiencies of our trade in every other part of the world. They expatiated on the great variety of climates which that country contained, and the vast resources which would thence arise to commerce. That the value of our conquests thereby ought not to be estimated by the present produce, but by their probable increase. Neither ought the value of any country to be solely tried on its commercial advantages; that extent of territory and a number of subjects are matters of as much consideration to a state attentive to the sources of real grandeur, as the mere advantages of traffic; that such ideas are rather suitable to a limited and petty commonwealth, like Holland, than to a great, powerful, and warlike nation. That on these principles, having made very large demands in North America, it was necessary to relax in other parts. That France would never be brought to any considerable cession in the West Indies; but that her power and increase there could never become formidable, because the existence of her settlements depended upon ours in North America, she not being any longer left a place from whence they can be supplied with provisions; that in losing something of the sugar trade, we lost very little else than a luxury; as to the other produce of the West Indies, it might be in a great measure, and in part already was, supplied by our possessions on the continent, which daily increased not only in the quantity, but in the kind of its produce.

At length the House divided, when there appeared 319 for the Address, and 65 against it.

List of the Minority.

A'Court, maj. gen.	Ashburnham, Wm.
Ancram, earl of	Barrington, sir John
Armitage, sir Geo.	Beckford, William

* "December 13, 1762. Yesterday I received your letter, which gave me a very clear account of the debate in your House. It is impossible for a human creature to speak well for three hours and a half; I question even if Belial, who, according to Milton, was the orator of the fallen angels, ever spoke so much at a time. There must have been a trick in Charles Townshend's speaking for the Preliminaries; for he is infinitely above having an opinion. Lord Egremont must be ill, or have thoughts of going into some place; perhaps into lord Granville's, who they say is dying; when he dies, the ablest head in England dies too, take it for all in all." Lord Chesterfield to his Son.

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Boulton, Hen. Crab	Mawbey, Joseph
Borton, Bartholomew	Metham, sir G. Montg.
Calvert, John	Middlesex, earl of
Calvert, Nicholson	Murray, James
Cavendish, Richard	Noel, Thomas
Cholmley, Nathaniel	Norris, John
Cholmondeley, Tho.	Onslow, George
Clayton, William	Popham, Edward
Clive, lord	Plumtree, John
Codrington, sir Wm.	Praed, H. Mackworth
Coke, Wenman	Proctor, sir W. Beauc.
Cooke, George	Pollington, lord
Dempster, George	Powell, Harcourt
Dodd, John	Rolle, Denys
Egerton, Samuel	Savile, sir Geo.
Fisher, Brice	Seawen, James
Fitzwilliam, maj. g. J.	Sergison, Thomas
Fonnereau, Philip	Simpson, sir Edward
Fonnereau, Thomas	Slingsby, sir Henry
Forrester, Brook	Staunton, Thomas
Forrester, Cecil	Thomlinson, John
Gage, viscount	Townshend, Charles
Gascoyne, Bamber	Triste, Browse
Grenville, r. h. James	Vincent, sir Francis
Hervey, John	Whitmore, l. gen. Wm.
Hewett, John	Walsh, John
Holt, Rowland	Willy, William
Honeywood, Fraser	Woodley, William
Ladbroke, sir Robert	TELLERS.
Long, sir Robert	Campbell, Daniel
Long, James	Wilkes, John

A Committee was then appointed to prepare the Address, which was next day reported to the House; when another debate ensued:

Mr. *Legge* said, that the union of the whole House of Bourbon, which is replete with reciprocal advantages to both France and Spain, is not even attempted to be broken by this treaty. The fishery that is granted to the former will prove to her a mine of wealth. The West India settlements which are restored to both will immediately, and without any expence, put their commerce upon a respectable footing, and in a short time furnish them with the means for maintaining another war; while before our acquisitions, which require great sums, great improvements, and long time, can be made even valuable at all, we shall have this dance to go over again with 140 millions upon our backs.

The House divided again, when there appeared 227 for the Address, and 63 against it.

List of thirty-one gentlemen who were in this division of the Minority, and were absent the day before.

Archer, hon. Andrew	Burrard, Henry
Baker, sir William	Buller, John
Butler, John	Cavendish, lord Geo.
Cavendish, lord John	Robinson, hon. Tho.
Dummer, Tho. Lee	Shelley, John
Fitzroy, hon. Charles	Townshend, Thomas
Gilmore, sir Alex.	Vernon, Geo. Venables
Grey, lord	Villiers, lord
Legge, r. h. H. Bilson	Walpole, hon. Tho.
Lawrence, William	West, James
Mellish, Joseph	White, John
Meynell, Hugo	Wilkinson, Andrew
Middleton, viscount	Winterton, lord
Onslow, George	TELLERS.
Pelham, Thomas	Cavendish, lord Fred.
Poole, sir Francis	Townshend, Tho. jun.

So that the whole number of members who avowed, in the House, their disapprobation of the peace, stands thus:

First division . . .	65
Mr. Pitt	1
Second division . .	31
	97*

* "The victory being as complete as the Favourite could wish, he had now nothing to do but to try the force of corruption among the people, in order to obtain another mode of approbation. The lieutenants of the counties had begging letters sent to them, entreating them to use their utmost influence. The mayors and other magistrates of corporations, the leading men in societies, and every person who had influence enough to collect ten or twelve men together, were all applied to for addresses on the peace. The grave dignitaries of the church extolled the glorious merits of this blessed peace. The lawyers upon their circuits, laid aside the law, in their charges to the grand juries, to enlarge upon, and enforce a true knowledge of the great advantages of the peace. In short, no means honourable or base, abject or forcible, were left untried to obtain these prostitute addresses, in order to confirm a favourable opinion of him who did not deserve it, in that breast, where unhappily it had already gained but too fatal a foundation. Some of the addresses came from counties which never met to consider them, with subscriptions mendicated from house to house, of such as could be prevailed upon to sign them. Others were surreptitiously procured from packed assemblies; to which those only were secretly invited, whose subserviency to a job was secured, and opposed by others accidentally present. They were, in general, devised and dictated by some favourite tool of administration. The seal of the borough of W———, in particular, was put to the address, without the knowledge of more than three of the corporation; the rest disavowing the felonious act, when discovered. The great county of York, however, refused to address, notwithstanding the sly and cunning efforts of a lawyer. The city of London also refused to address, notwithstanding the private assurances of fourteen thousand pounds to complete their bridge. As

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The Commons' Address on the Preliminary Articles of Peace.] The following is the Address as agreed to:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your Majesty our most humble and hearty thanks for your most gracious condescension, in ordering to be laid before us the Preliminary Articles of Peace concluded between your Majesty on the

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did likewise the county of Surry, and other places.

"The voice of the honest independent public was clear and strong against the terms of peace. They condemned it with firmness, temper and judgment, which gave spirit to that part of the opposition, which had little virtue of their own, and derived what they afterwards pretended to from the example of the people. Finding their own insignificance, and still perceiving who were highest in esteem with the public, they solicited an union with those who had resigned on account of late measures. The established reputation and unshaken popularity of these truly honourable persons, convinced them that it would be folly to attempt an opposition without the sanction of their names at the head of it; which was indeed the only step they could take to save their own from contempt and obscurity. The principal persons having consented to a coalition, they frequently dined together at each other's houses. The first dinner was given by the duke of Newcastle, about the middle of March, 1763; at which were present the dukes of Devonshire, Bolton, and Portland; marquis of Rockingham; earls Temple, Cornwallis, Albemarle, Ashburnham, Hardwicke, Besborough; the lords Spencer, Sondes, Grantham, and Villiers; Mr. Pitt, Mr. J. Grenville, and sir George Savile.

"This union is to be considered as the beginning of the opposition; for until it took place there cannot be said to have been any regular and proper opposition formed. And this public meeting, and the rest which followed, of which there were several, consisting of the principals, were to assure their friends, and the public, that at length an unanimous and firm resolution was taken, to attempt the deliverance of the nation from Scottish oppression.

"When the news of this union reached the Favourite, he began to entertain thoughts of retiring. His elbow counsellor endeavoured to divide the opposition. By the assistance of other persons, he tampered with one, cajoled with another; and, with one noble personage, he carried on a negotiation to nearly the time of his death. The Favourite judging of all the opponents, by some of the most worthless, which he had the happiness to know, and thinking that their object was indubitably power, he made an attempt to draw off the popular few, by offering to make an opening for them to return to the administration. But they spurned, with a spirit of indignation, the insult offered to their integrity; and refused, with a firmness that was worthy of being an example to others,

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to desert their friends and betray their country." History of the Minority, p. 88.

The city of London presented a tardy and reluctant Address, but the lord mayor did not attend with it at St. James's, and the bells of several parishes were muffled during the procession.

The following Letters which passed between Mr. Pitt and Mr. Allen on the subject of the Bath Address, were inserted in the Bath Journal, at the request of Mr. Pitt, to obviate the wrong impressions which an invidious representation of the affair in the public news-papers might have occasioned.

LETTERS between Mr. Pitt and Mr. Allen.

"*Hayes, June* 2, 1763.

"Dear Sir; having declined accompanying sir John Seabright in presenting the Address from Bath, transmitted to us jointly by the town clerk, I think it on all accounts indispensibly necessary that I should inform you of the reason of my conduct. The epithet of 'adequate' given to the peace contains a description of the conditions of it, so repugnant to my unalterable opinion concerning many of them, and fully declared by me in parliament, that it was as impossible for me to obey the corporation's commands in presenting their address, as it was unexpected to receive such a commission. As to my opinion of the peace, I will only say that I formed it with sincerity according to such lights as my little experience, and small portion of understanding, could afford me. This conviction must remain to myself the constant rule of my conduct; and I leave to others, with much deference to their better information, to follow their own judgment. Give me leave, my dear good Sir, to desire to convey, through you to Mr. Mayor, and to the gentlemen of the corporation, these my free sentiments; and with the justest sense of their past goodness towards me, plainly to confess that I perceive I am but ill-qualified to form pretensions to the future favour of gentlemen who are come to think so differently from me, on matters of the highest importance to the national welfare. I am ever, with respect and affectionate esteem, my dear Sir, your faithful friend, and obliged humble servant, W. PITT."

"Lady Chatham joins with me, in all compliments to the family of Prior Park."

"To Ralph Allen, esq."

The Address was in these words:

"To the King's most excellent Majesty.

"We the mayor, aldermen, and common-council of the ancient and loyal city of Bath,

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one part, and their most Christian and Catholic majesties on the other; and to assure your Majesty that we have considered them with our best attention. And although to make peace and war be your Majesty's just and undoubted prerogative, yet knowing how agreeable it must be to your mind to be informed of the grateful sense your people entertain of the justice and wisdom of your measures, and of your unwearied attention to their welfare, your faithful Commons are impatient to express their approbation of the advantageous

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do beg leave to congratulate, and most humbly to thank your Majesty for an adequate and advantageous peace, which you have graciously procured for your people, after a long and very expensive, though necessary and glorious war, which your Majesty, upon your accession to the throne, found your kingdoms engaged in.

"And we take the liberty to assure your Majesty, that upon all occasions we shall be ready to give the most evident proofs of the truest zeal and duty, which the most dutiful subjects can testify to the most gracious and best of princes.

"In testimony whereof we have hereunto affixed our common seal, the 28th day of May, 1763."

"*Prior Park, June* 4, 1763.

"My dearest Sir; it is extremely painful to me to find by the letter which you was pleased to send me the second of this month, that the word 'adequate,' in the Bath address, has been so very offensive to you as to hinder the sincerest and most zealous of your friends, in the corporation, from testifying for the future their great attachment to you.

"Upon this occasion, in justice to them, it is incumbent on me to acquaint you, that the exceptionable word does not rest with them, but myself, who suddenly drew up that address to prevent their sending of another which the mayor brought to me in terms that I could not concur in; copies of the two forms I have taken the liberty to send to you in the inclosed paper for your private perusal; and sir John Seabright having in his letter to Mr. Clutterbuck only acquainted him, that in your absence in the country he delivered the address, I shall decline executing of your commands to the corporation on this delicate point, unless you renew them, upon your perusal of this letter, which for safety I have sent by a messenger, and I beg your answer to it by him, who has orders to wait for it.

"Permit me to say, that I have not the least objection to, but the highest regard, and even veneration for your whole conduct; neither have I any apology to make for the expression in which I am so unfortunate to differ from you. And with the utmost respect, affection, and gratitude, you will always find me to be, my dearest Sir, &c. R. Allen."

"The best wishes of this family always attend lady Chatham."

"To the right hon. Mr. Pitt."

"*Hayes, June* 5, 1763.

"My dear Sir; I am sorry that my letter of the 2nd inst. should give you uneasiness, and occasion to you the trouble of sending a messenger to Hayes. I desire you to be assured, that few things can give me more real concern than to find that my notions of the public good differ so widely from those of the man, whose goodness of heart and private virtues I shall ever respect and love. I am not insensible to your kind motives for wishing to interpose time for second thoughts; but knowing how much you approve an open and ingenuous proceeding, I trust that you will see the unfitness of my concealing from my constituents the insurmountable reasons which prevented my obeying their commands, in presenting an address containing a disavowal of my opinion, delivered in parliament relating to the peace. As their servant, I owe to these gentlemen an explanation of my conduct on this occasion; and as a man not forgetful of the distinguished honour of having been invited to represent them, I owe it, in gratitude, to them, not to think of embarrassing and encumbering, for the future, friends to whom I have such obligations; and who now view with approbation measures of an administration, founded on the subversion of that system which once procured me the countenance and favour of the city of Bath. On these plain grounds, very coolly weighed, I will venture to beg again that my equitable, good friend will be so good to convey to Mr. Mayor and the gentlemen of the corporation, my sentiments, as contained in my letter of the 2nd instant. I am ever, with unchanging sentiments of respect and affection, my dear Sir, most faithfully yours, W. Pitt."

"*Prior Park, June* 9, 1763.

"My dearest Sir; with the greatest anxiety and concern I have, in obedience to your positive and repeated commands, executed the most painful commission that I ever received.

"Upon this disagreeable occasion give me leave just to say, that however different our abilities may be, it is the duty of every honest man, after he has made the strictest enquiry, to act pursuant to the light which the Supreme Being has been pleased to dispense to him; and this being the rule that I am persuaded we both govern ourselves by, I shall take the liberty now only to add, that it is impossible for any person to retain higher sentiments of your late glorious administration than I do, nor can be with truer fidelity, zeal, affection, and respect than I have been, still am, and always shall be, my dearest Sir, &c. R. Allen."

"The best wishes of this family wait upon lady Chatham."

"To the right hon. Mr. Pitt."

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terms upon which your Majesty hath concluded Preliminary Articles of Peace, and to lay before your Majesty the hearty applause of a faithful, affectionate, and thankful people.

"While we admire your Majesty's prudence in availing yourself of the successes with which divine Providence hath blessed your arms, whereby your Majesty hath procured such solid, and in all human probability, such permanent advantages for this nation, we are no less sensibly affected with that humane disposition which induced your Majesty to put an end to a long, bloody, and expensive, though glorious and successful war.

"Your faithful Commons will take the earliest opportunity to examine into the state of the public revenues, in order to establish the best œconomy for the future, so wisely recommended by your Majesty, and so necessary to maintain the kingdom of Great Britain in that great and respectable situation in which your Majesty's fortitude and wisdom have now placed us.

"We are convinced that posterity, from their own experience, will hereafter agree with us, in esteeming that peace to be no less honourable than profitable, by which there will be ceded to Great Britain such an addition of territory, attended with so great an extension of our commerce.

"We therefore beg leave humbly to lay before your Majesty the strongest sentiments of gratitude; and to assure your Majesty, that it shall be our study to improve that confidence of the people in you, which your Majesty hath already so very deservedly acquired from your conduct in the present most important conjuncture."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen;

"I return you my hearty thanks for this most loyal and affectionate Address: your approbation of the measures I have taken for restoring peace, and of the terms upon which it is to be concluded, gives me the highest satisfaction. The affection and gratitude of my people are the most pleasing return I can receive for my endeavours to promote their happiness."

1763.

Votes of Thanks to the Duke of Brunswick, Rear Admiral Rodney, Sir G. Pocock, the Marquis of Granby, and Count la Lippe Buckeburgh.] January 20, 1763. The Speaker acquainted the House, that, in obedience to their commands of the 9th of December last, he had signified to his serene highness Prince Ferdinand of Brunswick their Thanks for the great and important services he had performed to this country in the several campaigns, during which he had commanded his Majesty's army in Germany; and that he had, on the 11th instant, received a letter in answer from Prince Ferdinand, in the French language, a translation of which is as followeth:

"*From Brunswick, 27 Dec.* 1762.

"Sir; I have received the letter which you, Sir, did me the honour of writing to me on the 9th of this month, to acquaint me with the resolution which the House of Commons of Great Britain have come to, to give me their thanks for the services which I have been able to perform to Great Britain, during the time that I was at the head of his Majesty's army in Germany.

"I am infinitely flattered with so distinguishing an honour; and I intreat you, Sir, to express to that illustrious body my lively acknowledgments for this signal mark which they have given me of their approbation. I am happy to express to you in particular, upon this occasion, with how much esteem I am, Sir, &c.

"FERDINAND,

"Duc de Brunswic et de Lunebourg."

Mr. Speaker also acquainted the House, that he had, on the 29th of December last, received, from rear-admiral Rodney, the following letter, in return to their Thanks, signified to him, in obedience to their commands of the 6th of May last:

"*Martinico, Sept.* 8, 1762.

"Sir; I embrace the first opportunity to acknowledge the receipt of your letter of the 6th of May, inclosing the resolution of the House of Commons of the same date.

"The favourable regard with which the House has been pleased to look upon my services, demands my earliest and most grateful acknowledgments; but, Sir, I claim no other merit, than having been, in conjunction with major-general Monckton, the happy instrument of executing the wise measures concerted and directed by his Majesty, to which alone are owing the valuable acquisitions made to his dominions in this part of the world.

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"But I should be insensible indeed, Sir, if I did not receive the distinguishing honour the House of Commons had conferred on me with the most sincere and most respectful thanks; which I beg you will be pleased to signify to the House in my behalf, and that it shall ever be my constant care to retain the deepest sense of this testimony of their regard and approbation.

"My particular thanks, Sir, are due to you for the polite and obliging manner in which you have been pleased to communicate to me the resolution of the House; and I take this opportunity of assuring you, that I have the honour to be, with the most sincere respect and esteem, Sir, &c. G. B. RODNEY."

January 29. The Speaker acquainted the House, that he had, in obedience to their commands of the 2nd of December last, signified to sir George Pocock, knight of the most honourable order of the Bath, their Thanks for the many important services performed by him during the course of this war, and particularly in the glorious expedition against the Havannah; and that he had received the following answer:

"*Whitehall, Jan.* 25, 1763.

"Mr. Speaker; I have received the honour of your letter, dated the second of December last, inclosing the resolution of the House of Commons of the same date, to give me the Thanks of the House for the many important services performed by me during the course of this war, and particularly in the glorious expedition against the Havannah. Upon this occasion, Sir, I cannot sufficiently express my thanks for the great honour the House have conferred on me, in taking notice of the services I have been so happy to render my king and country during the course of the war against France and Spain: I am extremely sensible of this distinguishing mark of their approbation of my conduct, which gives me the greatest satisfaction, and will ever remain impressed on my mind. Permit me, Sir, to return you my sincere thanks for the very obliging manner in which you have signified to me the sentiments of the House of Commons. I have the honour to be, &c.

"G. POCOCK."

The Speaker also acquainted the House that, in obedience to their commands of the 9th of December last, he had, by letter to the colonel, or other commanding officer, of each respective corps of militia which were embodied, signified their Thanks to the officers of the said corps for the seasonable and meritorious service they had done their country; and that he had received answers, by letters, from most of the said colonels, or other commanding officers, desiring him to make their grateful acknowledgments for the great honour done the militia by the notice which the House had been pleased to take of their endeavours to serve their king and country.

February 1. The Speaker acquainted the House, that he had, in obedience to their commands of the 3rd of December last, signified to the marquis of Granby their Thanks for the great and important services he had performed to his king and country during the several campaigns in which he commanded the British troops in Germany, and that he had received the following Answer:

"*Warbourg, January* 12, 1763.

"Sir; the honour of your letter, of the third of last month, was not delivered to me till a few days since, the physicians, who attended me in my illness, having forbid any letters being given to me in the situation my health then was: this, I hope, will plead my excuse for your not having received an immediate answer.

"Though I cannot, Sir, be vain enough to think any services I may have done my country can have merited so high a reward as the thanks of the honourable House, yet it was with the utmost satisfaction I received them.

"I shall beg to look upon them as a mark of their approbation of my conduct, arising, I hope, from their persuasion of my having always zealously promoted the service in which his Majesty has done me the honour to employ me, and of my having constantly endeavoured, to the best of my abilities, punctually to execute the wise and able orders I received.

"I must beg, Sir, that you will, when proper, return the House my most sincere and grateful thanks for this great honour conferred upon me, which I shall always, with the utmost gratitude, remember. The best return I can make, will be a perpetual attention to the interests of my king and country.

"Give me leave, Sir, at the same time, to return you my particular thanks for the obliging manner in which you communi-

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cated to me this high honour, and believe me to be, with the greatest regard and respect, Sir, &c. GRANBY."

The Speaker acquainted the House, that, in obedience to their commands of the 16th of December last, he had signified to the reigning Count La Lippe Buckeburg their Thanks for his disinterested and spirited conduct during the late war in Germany; and for his important services to this country, by defending the dominions of his Majesty's faithful and good ally the king of Portugal; and that he had received a letter in answer from Count La Lippe, as followeth, viz.

" *Salva Terra de Magos, Feb.* 1, 1763.

" Sir; it is with the greatest gratitude that I see, by the resolution of the 16th of December, of the Commons of Great Britain in Parliament assembled, that that august assembly condescends to declare their approbation of my behaviour during this war.

" Although I am not able to express how much I am sensible of so high a distinction, and how much I feel the value of it, I take the liberty to desire you to lay my most dutiful thanks before the House for the honour they do me; my utmost desire will always be to merit that respectable senate's approbation, which I consider as an inestimable reward of my endeavours to manifest my zealous and most respectful attachment to his Majesty and his allies.

" I beg you will receive my sincerest acknowledgments for transmitting to me the resolution of the House, in so obliging a manner as you are pleased to do, in the letter you have honoured me with on that occasion. I am, with the greatest regard, Sir, &c. The reigning Count of

" SCHAUMBOURG LIPPE."

Report from the Committee of the House of Commons on the State of the Private Mad-houses of the Kingdom.] February 22. Mr. Townshend reported from the Committee who were appointed to enquire into the State of the Private Mad-houses in this kingdom, and report the same, with their opinion thereupon, to the House, that the Committee had enquired accordingly; and had come to a resolution; which they had directed him to report to the House; and he read the Report in his place; and afterwards delivered it in at the clerk's table: where the same was read; and is as follows:

" The Committee being sensible how much a subject of this nature is liable to frequent digression and irregularity in the examination of witnesses, and thinking to keep the inquiry, as much as possible, from running unnecessarily into the stories and transactions of private life, they resolved very early in their proceedings to confine themselves to the two points, which seemed in their judgment to be referred to them by the House; and they now beg leave to be permitted to follow the same method in their Report which they strictly observed in their examination.

" These two points were;

" 1st, The manner of admitting persons into houses now kept for the reception of lunatics; and,

" 2dly, The treatment of them during their confinement.

" The first person who appeared before your committee was Mrs. Hester Williams, complaining of her having been carried by stratagem to a house kept for the reception of lunatics, and of the severe treatment she received during her confinement; but your committee having no reason to conclude, either from her own state of her case, or from the witnesses which she brought in support of it, or from other persons attending to prove her actual insanity at the time of her being carried to the madhouse, that her case has been such, as to be itself any conclusive proof of abuse in the method of admission to these houses, or to be a sufficient ground for the interposition of the legislature, they presume to pass cursorily over a complaint, in itself very general, affecting the characters of persons of fair character in private life, and materially contradicted in the facts and allegations of it by many witnesses of weight and authority.

" The next complainant who appeared before your committee was Mrs. Hawley, whose representation of her case to the committee was as follows: That being on the 5th of September, 1762, invited in an affectionate letter by her mother and husband to go upon a party of pleasure to Turnham Green, she was by them carried to a madhouse at Chelsea, kept by Turlington:

" That, upon her being carried into the house, she knelt down, and exhorted the keeper to let her go, who refused her, upon the authority of her mother directing him to keep her confined; she alleged that she was shut up night and day in a cham-

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ber, locked and barricadoed; refused the use of pen and paper; no notice permitted to be carried to any relation or friend; and treated with severity: and she added, that during the whole time she was never visited by her mother, nor ever desired to take any medicines whatever; that she continued under confinement in the said house till the 4th of October, when she was, in pursuance of a writ of Habeas Corpus, granted by lord Mansfield, carried before his lordship, who discharged her.

"In support of this representation Mrs. Hawley called Mr. La Fortune, who declared, that he had known Mrs. Hawley for above two years past; that on the 5th of September, the day of her confinement, she had dined at his house, and that she then told him she had received an affectionate letter from her mother, desiring her to go with her upon a party to Turnham Green; that he advised her not to trust too much to sudden changes of temper, and to be upon her guard; that upon his starting this objection, she desired him, in case she was absent more than two days, to enquire after her; and that upon enquiring for her, and being told she was gone to Sion, and upon going to Sion, without finding her there, he suspected she was put into a madhouse; upon which he applied to lord Mansfield for a Habeas Corpus, who refused the writ, upon the suggestion that he was not a relation, but at the same time ordered doctor Riddle, a surgeon in Marlborough Street, to visit Mrs. Hawley.

"To pursue the thread of this evidence, Mr. Riddle was called before your committee, who said, that upon being ordered to go to Turlington's madhouse at Chelsea, and visit Mrs. Hawley, he was refused admittance, and assured that no such person was there: that during the dispute, Mrs. Hawley coming to the window, he saw her, and spoke to her; and that on his return to lord Mansfield, he informed his lordship of what had happened; and declared he believed Mrs. Hawley to be in her senses.

"Mrs. Hawley having been asked whether she knew of any other persons, in the same circumstances with herself, confined in the same house; and she naming Mrs. Smith, the committee thought it necessary to order her to attend.

"Mrs. Smith informed your committee, that she had been carried to Turlington's madhouse by her husband, who left her there, with an assurance that he would return very soon: that Mr. King, the keeper of the house, told her, that her husband had taken this lodging for that night; that her husband told her in a letter, which she received the next day, that he was glad that he had left her in so pleasant a situation; to which she returned no answer: that she was told from time to time she must make herself easy; that she should have been happy to have put an end to her confinement; and that it was now two years since she had been carried to this house. She added, that during her confinement she has been attended by no physician or apothecary whatever.

"The next person who attended the committee was Mrs. Durant, who complained that about eight years ago she was carried to Miles's madhouse, at Hoxton; and that during her confinement there, she was ordered no medicines, nor attended by any body: that she was refused all opportunity of sending to her friends, during the three weeks of her confinement; and that she was released by her mother, attended by Mr. Lediard, a justice of the peace; upon whose arrival, as Mrs. Durant alleges, her chains were privately knocked off.

"Mrs. Gold, the mother of Mrs. Durant, informed the committee, that upon receiving an anonymous letter, giving her an account that her daughter went away about three weeks before with her husband, and had not since been heard of, she applied to her son-in-law, insisting upon knowing from him where her daughter was: that, upon his refusal to give her any satisfactory account of his wife, she applied to Mr. Lediard, a justice of the peace, who drew from Mr. Durant a confession, that his wife was gone to Miles's madhouse, at Hoxton: that upon the mother and the justice going to Miles's, they were refused the sight of Mrs. Durant, upon the pretence that Mr. Miles was not at home, until upon Mr. Lediard being understood by the person of the house to be a magistrate, they were admitted; Mrs. Durant was then brought into the parlour, where Mrs. Miles confessed to Mr. Lediard, that she did not think her mad; and that, on the contrary, she was confined there only by her husband's order.

"Mr. Morrison attending, at the desire of Mrs. Durant, to prove that she was not insane at the time of her being forced into confinement, he declared, that he was at

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Mrs. Gold's, the mother of Mrs. Durant, when the anonymous letter came, informing her of her daughter's confinement: that he had seen Mrs. Durant frequently near the time of her being carried into confinement, and never had the least doubt of her being in her senses; that he was present when Mrs. Gold received the anonymous letter, and advised her to look after her daughter; that he was also present the next day when the conversation passed between Mrs. Gold, Mr. Lediard, and Mr. Durant, in which Mr. Durant acknowledged his wife was in a madhouse; and that being present also when Mr. Lediard and Mrs. Gold returned from the madhouse, he then saw Mrs. Durant, who had no marks whatever of any degree of insanity; and that Mr. Durant the husband, and his wife, did then, and there, make up all disagreements, at his interposition.

"It having appeared to the Committee, in the course of the several complaints, and the consequential examinations, that the extraordinary imprisonments upon the imputation of lunacy, have happened in the houses kept by Turlington and Miles, your committee thought they should ill discharge their duty, or answer the expectations of the House, if they did not summon Mr. Turlington himself, whom they thought both the objects of the enquiry, and the common principles of justice required should be ordered to attend.

"Mr. Turlington informed the committee, that he kept a house at Chelsea for the reception of lunatics; but added, that he usually leaves the management of the house, and the admission of patients, to Mr. King, his agent: upon being asked what instructions he gave to Mr. King, in respect to the admission of persons, he avowed, that the rule was general, to admit all persons who were brought; and that in the administration of the house, he received a report of the persons admitted from time to time, but left the business in general to Mr. King: he added, that, though the house is intended for the reception of lunatics, other persons are admitted as lodgers: that no physicians attend the house; that no register of the persons is kept; that he considered Mrs. Smith (mentioned in the former part of this Report) merely as a boarder; and that he took her into confinement merely at the desire of her husband, who alleged, that the neighbours were afraid she would set the house on fire; that he received six guineas a quarter for her maintenance; and that it was not in her power to go out of the house if she would: he acknowledged that he remembered Mrs. Hawley, whom he said he believed to have been a lunatic, and that she was released by a Habeas Corpus directed to Mr. King; he denied, in general, the severities charged upon the house by other witnesses, and expressly asserted that chains were never used.

"Mr. Turlington having, in defence of the proceedings of this House, referred himself to Mr. King, as the person entrusted and employed by him, the committee thought it necessary to summon him.

"Mr. King said, he had been in the wool trade, but for six years past he had been employed by Mr. Turlington to keep his madhouse: that he had received no written directions from Mr. Turlington; that he found several patients in the house on his being employed, and all lunatics; that since his being employed, he had admitted several for drunkenness, and for other reasons of the same sort, alleged by their friends or relations bringing them, which he had always thought a sufficient authority.

"As to the treatment of the persons confined, he said, that they had the liberty of walking in the garden, and passing from one room to another; and as to their diet and apartments, he said, it was according to the allowance they paid, which was from sixty to twenty pounds a year: he admitted that he knew Mrs. Hawley; that she was confined at the representation of a woman who called herself her mother, and that the reason alleged by her for the confinement of her daughter, was drunkenness: he said, he did not remember that she was refused pen, ink, and paper, but at the same time acknowledged it was the established order of the house that no letter should be sent by any of the persons confined to their friends or relations.

"Being asked upon what authority he admitted people, charged only with drunkenness, into a house of confinement, kept for the reception of lunatics? He answered, upon the authority of the persons who brought them; and he frankly confessed, that out of the whole number of persons whom he had confined, he had never admitted one as a lunatic during the six years he had been entrusted with the superintendency of the house.

"Upon being then asked, if he ever re-

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fused any persons who were brought upon any pretence whatsoever, provided they could pay for their board? He answered, No.

"To close this Evidence, and to bring it to a clear and final issue, Mr. King was asked this general question, Whether, if two strangers should come to his house, one calling herself the mother of the other, and charging her daughter with drunkenness, he would confine the daughter upon this representation of the woman calling herself the mother, though she was a stranger to him, and the daughter herself was apparently sober at that time? He said, he certainly should.

"Your Committee being desirous of obtaining every degree of assistance and information which might enable them more perfectly to obey the orders of the House, they desired the attendance of Dr. Battie and Dr. Monroe, two very eminent physicians, distinguished by their knowledge and their practice in cases of lunacy.

"Dr. Battie gave it as his opinion to your committee, that the private madhouses require some better regulations; that he hath long been of this opinion; that the admission of persons brought as lunatics is too loose and too much at large, depending upon persons not competent judges; and that frequent visitation is necessary for the inspection of the lodging, diet, cleanliness, and treatment. Being asked, if he ever had met with persons of sane mind in confinement for lunacy? He said, it frequently happened: he related the case of a woman perfectly in her senses, brought as a lunatic by her husband to a house under the doctor's direction, whose husband, upon Dr. Battie's insisting he should take home his wife, and expressing his surprise at his conduct, justified himself by frankly saying, he understood the house to be a sort of Bridewell, or place of correction.

"The doctor related also the case of a person whom he visited in confinement for lunacy, in Macdonald's house, and who had been, as the doctor believes, for some years in this confinement, upon being desired by Macdonald to attend him, by the order, as Macdonald, pretended of the relations of the patient, he found him chained to his bed, and without ever having had the assistance of any physician before; but some time after upon being sent for by one of the relations to a house in the city, and then told, Macdonald had received no orders for desiring the doctor's attendance; the doctor understood this to be a dismission, and he never heard any thing more of the unhappy patient, till Macdonald told him some time after, that he died of a fever, without having had any farther medical assistance, and a sum of money devolved upon his death to the person who had the care of him.

"Dr. Monroe informed your Committee, That he does not doubt but several persons have been improperly confined, upon the pretence of lunacy; and he cited two particular instances happening in two different madhouses. He gave it as his opinion, That the method and grounds of admitting patients for lunacy is too loose, and too much at large: that in the case of Mrs. Durant, mentioned in this report, Miles, the keeper of the madhouse at Hoxton, confessed to the doctor, that he had been imposed upon; and Dr. Monroe said, that in his opinion the present state of the private madhouses required regulation with respect to the persons permitted to keep such houses, the admission of patients, and the visitation.

"Your Committee are sensible that in their inquiry they confined themselves to a few cases, and to a few houses: but to obviate any conclusion from thence, that cases existing are rare, and the abuse the misconduct only of particular persons, they beg leave to assure the House, that a variety of other instances, arising in other houses, offered themselves for examination, and that Turlington's house was in no degree a selected case; but taken up by the Committee in the course of the inquiry, and merely as it presented itself upon the report of the witnesses, your committee restraining themselves out of a regard to the peace and satisfaction of private families, from the examination of more cases, than they judged to be necessary and sufficient to establish the reality of the too great abuses complained of in the present state of private madhouses; the force of the evidence, and the testimony of the witnesses, being at the same time so amply confirmed, and materially strengthened, by the confessions of persons keeping private madhouses, and by the authority, opinions, and experience of doctor Battie, and doctor Monroe.

"Whereupon your Committee came to the following Resolution:

"Resolved, That it is the Opinion of this Committee, that the present State of the Private Madhouses in this kingdom requires the interposition of the legislature."

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The said Resolution was agreed to by the House.

DEFINITIVE TREATY OF PEACE BETWEEN GREAT BRITAIN, FRANCE AND SPAIN.] March 18. The Chancellor of the Exchequer presented to the Commons, by his Majesty's command, a copy of the Definitive Treaty of Peace, between Great Britain, France and Spain, signed at Paris the 10th of February 1763; which is as follows:

Translation of the DEFINITIVE TREATY, and three separate Articles, between his Majesty, the Most Christian King, and the Catholic King, signed at Paris, the 10th February 1763.

In the name of the most holy and undivided Trinity, Father, Son, and Holy Ghost. So be it.

Be it known to all those whom it shall, or may, in any manner belong.

It has pleased the Most High to diffuse the spirit of union and concord among the princes, whose divisions had spread troubles in the four parts of the world, and to inspire them with the inclination to cause the comforts of peace to succeed to the misfortunes of a long and bloody war, which, having arisen between England and France, during the reign of the most serene and most potent prince, George the 2nd, by the grace of God, king of Great Britain, of glorious memory, continued under the reign of the most serene and most potent prince, George the 3d, his successor, and, in its progress, communicated itself to Spain and Portugal: consequently, the most serene and most potent prince, George the 3d, by the grace of God, king of Great Britain, France, and Ireland, duke of Brunswick and Lunenbourg, arch treasurer, and elector of the holy Roman empire; the most serene and most potent prince, Lewis the 15th, by the grace of God, most Christian king; and the most serene and most potent prince, Charles the 3d, by the grace of God, king of Spain and of the Indies; after having laid the foundations of peace in the Preliminaries, signed at Fontainebleau the 3d of November last; and the most serene and most potent prince, Don Joseph the 1st, by the grace of God, king of Portugal and of the Algarves, after having acceded thereto; determined to complete, without delay, this great and important work. For this purpose, the high contracting parties have named and appointed their respective ambassadors extraordinary and ministers plenipotentiary, viz. his sacred Majesty the king of Great Britain, the most illustrious and most excellent lord John duke and earl of Bedford, marquis of Tavistock, &c. his minister of state, lieutenant general of his armies, keeper of his privy seal, knight of the most noble order of the Garter, and his ambassador extraordinary and minister plenipotentiary to his most Christian majesty; his sacred majesty the most Christian king, the most illustrious and most excellent lord Cesar Gabriel de Choiseul, duke of Praslin, peer of France, knight of his orders, lieutenant general of his armies, and of the province of Britany, councillor in all his councils, and minister and secretary of state, and of his commands and finances; his sacred majesty the Catholic king, the most illustrious and most excellent lord, don Jerome Grimaldi, knight of the most Christian king's orders, gentleman of his Catholic majesty's bed chamber in employment, and his ambassador extraordinary to his most Christian majesty; his sacred majesty the most Faithful king, the most illustrious and most excellent lord, Martin de Mello and Castro, knight professed of the order of Christ, of his most Faithful majesty's council, and his ambassador, and minister plenipotentiary, to his most Christian majesty.

Who, after having duly communicated to each other their full powers, in good form, copies whereof are transcribed at the end of the present Treaty of Peace, have agreed upon the Articles, the tenor of which is as follows:

ART. I. There shall be a Christian, universal, and perpetual peace, as well by sea as by land, and a sincere and constant friendship shall be re-established between their Britannic, most Christian, Catholic, and most Faithful majesties, and between their heirs and successors, kingdoms, dominions, provinces, countries, subjects, and vassals, of what quality or condition soever they be, without exception of places, or of persons: so that the high contracting parties shall give the greatest attention to maintain between themselves and their said dominions and subjects, this reciprocal friendship and correspondence, without permitting, on either side, any kind of hostilities, by sea or by land, to be committed, from henceforth, for any cause, or under any pretence whatsoever, and every thing shall be carefully avoided,

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which might, hereafter, prejudice the union happily re-established, applying themselves, on the contrary, on every occasion, to procure for each other whatever may contribute to their mutual glory, interests, and advantages, without giving any assistance or protection, directly or indirectly, to those who would cause any prejudice to either of the high contracting parties: there shall be a general oblivion of every thing that may have been done or committed before, or since, the commencement of the war, which is just ended.

ART. II. The treaties of Westphalia of 1648; those of Madrid between the crowns of Great Britain and Spain of 1667 and 1670; the treaties of peace of Nimeguen of 1678 and 1679; of Ryswick of 1697; those of peace and of commerce of Utrecht of 1713; that of Baden of 1714; the treaty of the triple alliance of the Hague of 1717; that of the quadruple alliance of London of 1718; the treaty of peace of Vienna of 1738; the definitive treaty of Aix la Chapelle of 1748; and that of Madrid, between the crowns of Great Britain and Spain, of 1750; as well as the treaties between the crowns of Spain and Portugal, of the 13th February 1668; of the 6th February 1715; and of the 12th February 1761; and that of the 11th April 1713, between France and Portugal, with the guaranties of Great Britain; serve as a basis and foundation to the peace and to the present treaty: and for this purpose, they are all renewed and confirmed in the best form, as well as all the treaties in general, which subsisted between the high contracting parties before the war, as if they were inserted here word for word, so that they are to be exactly observed, for the future, in their whole tenor, and religiously executed on all sides, in all their points which shall not be derogated from by the present Treaty, notwithstanding all that may have been stipulated to the contrary by any of the high contracting parties: and all the said parties declare, that they will not suffer any privilege, favour, or indulgence, to subsist, contrary to the treaties above confirmed, except what shall have been agreed and stipulated by the present Treaty.

ART. III. All the prisoners made, on all sides, as well by land as by sea, and the hostages carried away, or given during the war, and to this day, shall be restored without ransom, six weeks, at latest, to be computed from the day of the exchange of the ratification of the present treaty, each crown respectively paying the advances, which shall have been made for the subsistence and maintenance of their prisoners, by the sovereign of the country where they shall have been detained, according to the attested receipts and estimates, and other authentic vouchers, which shall be furnished on one side and the other: and securities shall be reciprocally given for the payment of the debts which the prisoners shall have contracted in the countries, where they have been detained, until their intire liberty. And all the ships of war and merchant vessels, which shall have been taken, since the expiration of the terms agreed upon for the cessation of hostilities by sea, shall be likewise restored *bona fide*, with all their crews, and cargoes; and the execution of this article shall be proceeded upon immediately after the exchange of the ratifications of this treaty.

ART IV. His most Christian majesty renounces all the pretensions which he has heretofore formed, or might form, to Nova Scotia, or Acadia, in all its parts, and guaranties the whole of it, and with all its dependencies, to the king of Great Britain: moreover his most Christian majesty cedes, and guaranties to his said Britannic majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands, and coasts, in the gulph and river St. Laurence, and, in general, every thing that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty or otherwise, which the most Christian king, and the crown of France, have had, till now, over the said countries, islands, lands, places, coasts, and their inhabitants, so that the most Christian king cedes and makes over the whole to the said king, and to the crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty, under any pretence, or to disturb Great Britain in the possessions above mentioned. His Britannic majesty, on his side, agrees to grant the liberty of the Catholic religion to the inhabitants of Canada he will, consequently, give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Romish Church, as far

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as the laws of Great Britain permit. His Britannic majesty further agrees, that the French inhabitants, or others who had been subjects of the most Christian king in Canada, may retire, with all safety and freedom, wherever they shall think proper, and may sell their estates, provided it be to subjects of his Britannic majesty, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions: the term limited for this emigration shall be fixed to the space of 18 months, to be computed from the day of the exchange of the ratifications of the present Treaty.

ART. V. The subjects of France shall have the liberty of fishing and drying, on a part of the coasts of the island of Newfoundland, such as it is specified in the 13th Article of the Treaty of Utrecht; which article is renewed and confirmed by the present Treaty, (except what relates to the island of Cape Breton, as well as to the other islands and coasts, in the mouth and in the gulph of St. Laurence): and his Britannic majesty consents to leave to the subjects of the most Christian king the liberty of fishing in the gulph of St. Laurence, on condition that the subjects of France do not exercise the said fishery, but at the distance o : three leagues from all the coasts belonging to Great Britain, as well those of the continent, as those of the islands situated in the said gulph of St. Laurence. And as to what relates to the fishery on the coasts of the island of Cape Breton out of the said gulph, the subjects of the most Christian king shall not be permitted to exercise the said fishery, but at the distance of 15 leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties.

ART. VI. The King of Great Britain cedes the islands of St. Peter and Miquelon, in full right, to his most Christian majesty, to serve as a shelter to the French fishermen: and his said most Christian majesty engages not to fortify the said islands; to erect no buildings upon them, but merely for the convenience of the fishery; and to keep upon them a guard of 50 men only for the police.

ART. VII. In order to re-establish peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed, that, for the future, the confines between the dominions of his Britannic majesty, and those of his most Christian majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the river Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian king cedes in full right, and guaranties to his Britannic majesty, the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain, as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is beween the said island of New Orleans, and the right bank of that river, as well as the passage both in and out of its mouth: it is further stipulated, that the vessels belonging to the subjects of either nation, shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations, inserted in the 4th Article, in favour of the inhabitants of Canada, shall also take place, with regard to the inhabitants of the countries ceded by this Article.

ART. VIII. The king of Great Britain shall restore to France the islands of Guadaloupe, of Marie Galante, of Desirade, of Martinico, and of Belleisle; and the fortresses of these islands shall be restored in the same condition they were in, when they were conquered by the British arms: provided that his Britannic majesty's subjects, who shall have settled in the said islands, or those who shall have any commercial affairs to settle there, or in the other places restored to France by the present treaty, shall have liberty to sell their lands and their estates, to settle their affairs, to recover their debts, and to bring away their effects, as well as their persons, on board vessels, which they shall be permitted to send to the said islands, and other places restored as above, and which shall serve for this use only, without being restrained on account of

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their religion, or under any other pretence whatsoever, except that of debts, or of criminal prosecutions: and for this purpose, the term of eighteen months is allowed to his Britannic majesty's subjects, to be computed from the day of the exchange of the ratifications of the present Treaty; but, as the liberty, granted to his Britannic majesty's subjects, to bring away their persons and their effects, in vessels of their nation, may be liable to abuses, if precautions were not taken to prevent them; it has been expressly agreed between his Britannic majesty and his most Christian majesty, that the number of English vessels, which shall have leave to go to the said islands and places restored to France, shall be limited, as well as the number of tons of each one; that they shall go in ballast; shall set sail at a fixed time; and shall make one voyage only, all the effects, belonging to the English, being to be embarked at the same time. It has been further agreed, that his most Christian majesty shall cause the necessary passports to be given to the said vessels; that, for the greater security, it shall be allowed to place two French clerks, or guards, in each of the said vessels, which shall be visited in the landing places, and ports of the said islands, and places, restored to France, and that the merchandize, which shall be found therein, shall be confiscated.

Art. IX. The most Christian king cedes and guaranties to his Britannic majesty, in full right, the islands of Grenada, and of the Grenadines, with the same stipulations in favour of the inhabitants of this colony, inserted in the IVth Article for those of Canada: and the partition of the islands, called Neutral, is agreed and fixed, so that those of St. Vincent, Dominica, and Tobago, shall remain in full right to Great Britain, and that of St. Lucia shall be delivered to France, to enjoy the same likewise in full right; and the high contracting parties guaranty the partition so stipulated.

Art. X. His Britannic majesty shall restore to France the island of Gorée, in the condition it was in when conquered: and his most Christian majesty cedes, in full right, and guaranties to the king of Great Britain, the river Senegal, with the forts and factories of St. Lewis, Podor, and Galam; and with all the rights and dependencies of the said river Senegal.

Art. XI. In the East Indies, Great Britain shall restore to France, in the condition they are now in, the different factories, which that crown possessed, as well on the coast of Coromandel, and Orixa, as on that of Malabar, as also in Bengal, at the beginning of the year 1749. And his most Christian majesty renounces all pretensions to the acquisitions which he had made on the coast of Coromandel and Orixa, since the said beginning of the year 1749. His most Christian majesty shall restore, on his side, all that he may have conquered from Great Britain, in the East Indies, during the present war; and will expressly cause Nattal and Tapanoully, in the island of Sumatra, to be restored; he engages further, not to erect fortifications, or to keep troops in any part of the dominions of the subah of Bengal. And in order to preserve future peace on the coast of Coromandel and Orixa, the English and French shall acknowledge Mahomet Ally Khan for lawful nabob of the Carnatic, and Salabat Jing for lawful subah of the Decan; and both parties shall renounce all demands and pretensions of satisfaction, with which they might charge each other, or their Indian allies, for the depredations, or pillage, committed, on the one side, or on the other, during the war.

Art. XII. The island of Minorca shall be restored to his Britannic majesty, as well as Fort St. Philip, in the same condition they were in, when conquered by the arms of the most Christian king; and with the artillery which was there, when the said island and the said fort were taken.

Art. XIII. The town and port of Dunkirk shall be put into the state fixed by the last Treaty of Aix-la Chapelle, and by former treaties. The cunette shall be destroyed immediately after the exchange of the ratifications of the present Treaty, as well as the forts and batteries which defend the entrance on the side of the sea; and provision shall be made, at the same time, for the wholesomeness of the air, and for the health of the inhabitants, by some other means, to the satisfaction of the king of Great Britain.

Art. XIV. France shall restore all the countries belonging to the electorate of Hanover, to the landgrave of Hesse, to the duke of Brunswick, and to the count of La Lippe Buckebourg, which are, or shall be occupied by his most Christian majesty's arms: the fortresses of these different countries shall be restored in the

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same condition they were in, when conquered by the French arms; and the pieces of artillery, which shall have been carried elsewhere, shall be replaced by the same number, of the same bore, weight and metal.

ART. XV. In case the stipulations, contained in the XIIIth Article of the Preliminaries, should not be completed at the time of the signature of the present Treaty, as well with regard to the evacuations to be made by the armies of France of the fortresses of Cleves, Wesel, Gueldres, and of all the countries belonging to the king of Prussia, as with regard to the evacuations to be made by the British and French armies of the countries which they occupy in Westphalia, Lower Saxony, on theLower Rhine, the Upper Rhine, and in all the empire, and to the retreat of the troops into the dominions of their respective sovereigns; their Britannic, and most Christian majesties promise to proceed, *bona fide*, with all the dispatch the case will permit of, to the said evacuations, the entire completion whereof they stipulate before the 15th of March next, or sooner if it can be done; and their Britannic and most Christian majesties further engage and promise to each other, not to furnish any succours, of any kind, to their respective allies, who shall continue engaged in the war in Germany.

ART. XVI. The decision of the prizes made, in time of peace, by the subjects of Great Britain, on the Spaniards, shall be referred to the courts of justice of the admiralty of Great Britain, conformably to the rules established among all nations, so that the validity of the said prizes, between the British and Spanish nations, shall be decided and judged, according to the law of nations, and according to treaties, in the courts of justice of the nation, who shall have made the capture.

ART. XVII. His Britannic majesty shall cause to be demolished all the fortifications which his subjects shall have erected in the bay of Honduras, and other places of the territory of Spain in that part of the world, four months after the ratification of the present treaty: and his Catholic majesty shall not permit his Britannic majesty's subjects, or their workmen, to be disturbed, or molested, under any pretence whatsoever, in the said places, in their occupation of cutting, loading, and carrying away logwood: and for this purpose, they may build without hindrance, and occupy without interruption, the houses and magazines which are necessary for them, for their families, and for their effects: and his Catholic majesty assures to them, by this Article, the full enjoyment of those advantages, and powers, on the Spanish coasts and territories, as above stipulated, immediately after the ratification of the present treaty.

ART. XVIII. His Catholic majesty desists, as well for himself, as for his successors, from all pretension, which he may have formed, in favour of the Guipuscoans, and other his subjects, to the right of fishing in the neighbourhood of the island of Newfoundland.

ART. XIX. The King of Great Britain shall restore to Spain all the territory which he has conquered in the island of Cuba, with the fortress of the Havana, and this fortress, as well as all the other fortresses of the said island, shall be restored in the same condition they were in when conquered by his Britannic majesty's arms; provided, that his Britannic majesty's subjects, who shall have settled in the said island, restored to Spain by the present treaty, or those who shall have any commercial affairs to settle there, shall have liberty to sell their lands, and their estates, to settle their affairs, to recover their debts, and to bring away their effects, as well as their persons, on board vessels which they shall be permitted to send to the said island restored as above, and which shall serve for that use only, without being restrained on account of their religion, or under any other pretence whatsoever, except that of debts, or criminal prosecutions: and for this purpose, the term of eighteen months is allowed to his Britannic majesty's subjects, to be computed from the day of the exchange of the ratifications of the present treaty: but as the liberty, granted to his Britannic majesty's subjects, to bring away their persons, and their effects, in vessels of their nation, may be liable to abuses, if precautions were not taken to prevent them; it has been expressly agreed, between his Britannic majesty and his Catholic majesty, that the number of English vessels, which shall have leave to go to the said island restored to Spain, shall be limited, as well as the number of tons of each one; that they shall go in ballast; shall set sail at a fixed time; and shall make one voyage only; all the effects belonging to the English being to be embarked at the same time: it has been further agreed, that his Catholic majesty shall

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cause the necessary passports to be given to the said vessels; that, for the greater security, it shall be allowed to place two Spanish clerks, or guards, in each of the said vessels, which shall be visited in the landing-places, and ports of the said island restored to Spain, and that the merchandizes, which shall be found therein, shall be confiscated.

ART. XX. In consequence of the restitution stipulated in the preceding Article, his Catholic majesty cedes and guaranties, in full right, to his Britannic majesty, Florida, with Fort St. Augustin, and the bay of Pensacola, as well as all that Spain possesses on the continent of North America, to the east, or to the south east, of the river Mississippi. And, in general, every thing that depends on the said countries, and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholic king, and the crown of Spain, have had, till now, over the said countries, lands, places, and their inhabitants; so that the Catholic king cedes and makes over the whole to the said king, and to the crown of Great Britain, and that in the most ample manner and form. His Britannic majesty agrees, on his side, to grant to the inhabitants of the countries, above ceded, the liberty of the Catholic religion: he will consequently give the most express and the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit: his Britannic majesty further agrees, that the Spanish inhabitants, or others who had been subjects of the Catholic king in the said countries, may retire, with all safety and freedom, wherever they think proper; and may sell their estates, provided it be to his Britannic majesty's subjects, and bring away their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions: the term, limited for this emigration, being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty. It is moreover stipulated, that his Catholic majesty shall have power to cause all the effects, that may belong to him, to be brought away, whether it be artillery, or other things.

ART. XXI. The French and Spanish troops shall evacuate all the territories, lands, towns, places, and castles, of his most Faithful majesty, in Europe, without any reserve, which shall have been conquered by the armies of France and Spain, and shall restore them in the same condition they were in when conquered, with the same artillery, and ammunition, which was found there: and with regard to the Portuguese colonies in America, Africa, or in the East Indies, if any change shall have happened there, all things shall be restored on the same footing they were in, and conformably to the preceding treaties which subsisted between the courts of France, Spain, and Portugal, before the present war.

ART. XXII. All the papers, letters, documents, and archives, which were found in the countries, territories, towns, and places, that are restored, and those belonging to the countries ceded, shall be, respectively and *bona fide*, delivered, or furnished at the same time, if possible, that possession is taken, or, at latest, four months after the exchange of the ratifications of the present treaty, in whatever places the said papers or documents may be found.

ART. XXIII. All the countries and territories, which may have been conquered, in whatsoever part of the world, by the arms of their Britannic and most Faithful majesties, as well as by those of their most Christian and Catholic majesties, which are not included in the present treaty, either under the title of cessions, or under the title of restitutions, shall be restored without difficulty, and without requiring any compensation.

ART. XXIV. As it is necessary to assign a fixed epoch for the restitutions, and the evacuations, to be made by each of the high contracting parties; it is agreed, that the British and French troops shall complete, before the 15th of March next, all that shall remain to be executed of the 12th and 13th Articles of the Preliminaries, signed the 3rd of November last, with regard to the evacuation to be made in the empire, or elsewhere. The island of Belleisle shall be evacuated six weeks after the exchange of the ratifications of the present treaty, or sooner, if it can be done. Guadeloupe, Desirade, Mariegalante, Martinico, and St. Lucia, three months after the exchange of the ratifications of the present treaty, or sooner if it can be done. Great Britain shall likewise, at the end of three

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months after the exchange of the ratifications of the present treaty, or sooner, if it can be done, enter into the possession of the river and port of the Mobile, and of all that is to form the limits of the territory of Great Britain, on the side of the river Mississippi, as they are specified in the 7th Article. The island of Gorée shall be evacuated by Great Britain, three months after the exchange of the ratifications of the present treaty; and the island of Minorca, by France, at the same epoch, or sooner, if it can be done: and, according to the conditions of the 6th Article, France shall likewise enter into possession of the islands of St. Peter, and of Miquelon, at the end of three months after the exchange of the ratifications of the present treaty. The factories in the East Indies shall be restored six months after the exchange of the ratifications of the present treaty, or sooner, if it can be done. The fortresses of the Havana, with all that has been conquered in the island of Cuba, shall be restored three months after the exchange of the ratifications of the present treaty, or sooner, if it can be done: and, at the same time, Great Britain shall enter into possession of the country ceded by Spain, according to the 20th Article. All the places and countries of his most Faithful majesty, in Europe, shall be restored immediately after the exchange of the ratifications of the present treaty; and the Portuguese colonies, which may have been conquered, shall be restored in the space of three months in the West Indies, and of six months in the East Indies, after the exchange of the ratifications of the present treaty, or sooner, if it can be done. All the fortresses, the restitution whereof is stipulated above, shall be restored, with the artillery and ammunition which were found there at the time of the conquest. In consequence whereof, the necessary orders shall be sent by each of the high contracting parties, with reciprocal passports for the ships that shall carry them, immediately after the exchange of the ratifications of the present treaty.

ART. XXV. His Britannic majesty, as elector of Brunswic Lunenbourg, as well for himself, as for his heirs and successors, and all the dominions and possessions of his said Majesty in Germany, are included and guarantied by the present treaty of peace.

ART. XXVI. Their sacred Britannic, most Christian, and Catholic, most Faithful majesties, promise to observe, sincerely and *bona fide*, all the articles contained and settled in the present treaty; and they will not suffer the same to be infringed, directly or indirectly, by their respective subjects; and the said high contracting parties, generally and reciprocally, guaranty to each other all the stipulations of the present treaty.

ART. XXVII. The solemn ratifications of the present treaty, expedited in good and due form, shall be exchanged in this city of Paris, between the high contracting parties, in the space of a month, or sooner if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, we the underwrittee, their ambassadors extraordinary, and ministers plenipotentiary, have signed with our hand, in their name, and in virtue of our full powers, the present definitive treaty, and have caused the seal of our arms to be put thereto.

Done at Paris the 10th of February, 1763.

(L. S.) BEDFORD, C. P. S.
(L. S.) CHOISEUL, Duc de Praslin.
(L. S.) El Marquis de GRIMALDI.

Separate Articles.

I. Some of the titles made use of by the contracting powers, either in the full powers, and other acts, during the course of the negociation, or in the preamble of the present treaty, not being generally acknowledged; it has been agreed, that no prejudice shall ever result therefrom to any of the said contracting parties, and that the titles, taken or omitted, on either side, on occasion of the said negociation, and of the present treaty, shall not be cited, or quoted as a precedent.

II. It has been agreed and determined, that the French language, made use of in all the copies of the present treaty, shall not become an example, which may be alleged, or made a precedent of, or prejudice, in any manner, any of the contracting powers; and that they shall conform themselves, for the future, to what has been observed, and ought to be observed, with regard to, and on the part of powers, who are used, and have a right, to give and receive copies of like treaties in another language than French; the present treaty having still the same force and effect, as if the aforesaid custom had been therein observed.

III. Though the king of Portugal has

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not signed the present definitive treaty, their Britannic, most Christian, and Catholic majesties acknowledge, nevertheless, that his most Faithful majesty is formally included therein as a contracting party, and as if he had expressly signed the said treaty: consequently, their Britannic, most Christian, and Catholic majesties, respectively and conjointly promise to his most Faithful majesty, in the most express and most binding manner, the execution of all and every the clauses, contained in the said treaty, on his act of accession.

The present Separate Articles shall have the same force as if they were inserted in the treaty.

In witness whereof, we the underwritten ambassadors extraordinary, and ministers plenipotentiary of their Britannic, most Christian, and Catholic majesties, have signed the present Separate Articles, and have caused the seal of our arms to be put thereto.

Done at Paris the 10th of February, 1763.

(L. S.) BEDFORD, C. P. S.
(L. S.) CHOISEUL, Duc de Praslin.
(L. S.) El Marquis de GRIMALDI.

*Debate in the Commons on the Loan.**]

March 8. The Committee of Supply reported to the House, that they had voted the sum of 3,500,000*l.* to be raised in the manner following; that is to say, the sum 2,800,000*l.* by annuities, after the rate of 4*l.* per cent. per annum, transferrable at the Bank of England, and redeemable by parliament; and the sum of 700,000*l.* by two lotteries to be drawn at different times in the year 1763; each lottery to consist of 35,000 tickets, and every blank to be of the value of 5*l.*, the blanks and prizes to be attended with the like 4*l.* per cent. transferrable and redeemable annuities. Upon this occasion,

Mr. *Legge* said, that as to the bargain, he thought it a bad one; for that the Treasury themselves, in the disposition they had made of the navy bills and ordnance debentures, supposed the redeemable 4 per cent. to be at par, that the premium, therefore, upon this bargain would be whatever the rage for play (when the gamesters would think they were come for the last time to the table, and with a great deal of money in their pockets) should induce them to give for lottery tickets. This might go, especially upon two lotteries, to two or three pounds, or more, per ticket; and then they would give four, five, or six, per cent. premium for raising at four per cent. at par, which was enormous. He remarked further, that it was very possible, while so material an alteration between the preliminaries and the definitive treaty as the East India article, was depending, it might make signing the definitive treaty very doubtful, and consequently affect the stocks. But to what purpose, he asked, is the head of the treasury of the cabinet council, and admitted to the knowledge of foreign affairs, but to form his domestic conduct upon that knowledge; and therefore, why was so improper a season pitched upon to make the loan?

Mr. *Fox* declared, that the treasury knew the definitive treaty was signed at the time of making the loan; and at the same time to express his wonder at the folly of mankind, to give four or five pounds for leave to toss up for ten.

Mr. *Legge* answered, that if the treasury knew of the definitive treaty's being signed, they were inexcusable in not having brought their loan to an open subscription, which was the only sure way to take a test of the temper and folly of the market; and might, at such a time, and for so small a sum, have been done with safety.

It was objected, that as the sum borrowed had been done by a private subscription, an open subscription would have been not only the fairest, but the cheapest method, and which the necessities of the public called for. That the House, by agreeing to this bargain, consented to give a redeemable annuity of four per cent to the persons who advanced the loan. With indignation it was observed, that no less than two lotteries in one year were now, for the first time, without any urgent necessity, to be established in the days of peace, to the no small excitement of the pernicious spirit of gaming, which cannot be too much discountenanced by every state, governed by wisdom, and a sober regard to the morals of the people. Two lottery tickets, bearing four per cent interest, from the 5th of April, 1763, are to be allowed, at ten pounds each, to every subscriber of eighty pounds: whereas interest at 3 per cent., and that to commence only in a future year, hath been given upon former lotteries during the

* See History of the Minority, p. 100.

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highest exigencies of the public; at a time too, when there was in contemplation a loss of no less than 30 per cent. upon every blank and every prize, and when no less a sum than 12 millions was borrowed for the service of the government. At this time, and for several days past, the general price of stock was very much upon an equality with that which they bear at present; nor hath any considerable variation happened in the great three per cent and four per cent annuity funds since that time. The redeemable annuity, exclusive of the profit so certainly to be made upon the lottery ticket, sells at a premium of two and a half per cent., and the advantage made upon the whole loan, including that on the lottery tickets, is from ten to eleven per cent. clear profit; whereby an exorbitant gain arises to individuals at the expence of the public.

Proceedings in the Commons on the Cyder Tax.] The next scheme of supply, which was also brought in during the month of March, was an additional duty on Cyder and Perry. The first proposal was to lay 10*s.* per hogshead on the retailer, without extending the excise laws, confining the duty (which was much heavier than what was afterwards fixed by the act) to the victualler. The next proposal was to lay the same duty upon the first buyer. But the country gentlemen did not relish either of these proposals: and the court seeming to attend to them, changed the mode, and a Bill was brought in laying 4*s.* per hogshead on the grower. Thus the duty was lowered, but the excise laws were extended to private houses.

Mr. *Pitt* spoke against this measure, particularly against the dangerous precedent of admitting the officers of excise into private houses. Every man's house was his castle, he said. If this tax is endured, it will necessarily lead to introducing the laws of excise into the domestic concerns of every private family, and to every species of the produce of land. The laws of excise are odious and grievous to the dealer, but intolerable to the private person. The precedent, he contended, was particularly dangerous, when men by their birth, education, and profession, very distinct from the trader, become subjected to those laws.

Mr. Pitt's bon mot in this debate is remembered for the mirth it occasioned.

Mr. *Grenville* spoke in answer to Mr. Pitt; and although he admitted that the excise was odious, yet he contended that the tax was unavoidable: government did not know where they could lay another tax of equal efficiency. The right hon. gentleman, says he, complains of the hardship of this tax—why does he not tell us where we can lay another tax instead of it. And he repeated, with a strong emphasis, two or three times, 'Tell me where you can lay another tax!'

Mr. *Pitt* replied, in a musical tone, "Gentle shepherd, tell me where."

The whole House burst out in a fit of laughter, which continued for some minutes.

The principal Arguments in support of the Bill were these: that there had been many years a considerable duty on malt, which had been lately increased; that at the same time the inhabitants of the cyder counties, and those who had opportunities of buying immediately from the grower, drank cyder and perry as the substitutes of malt liquor, without paying any duty at all; and that there was a very high tax upon beer, and a very small one upon cyder. This way of reasoning was certainly captivating, because a proposal for equality carries with it its own recommendation. It was acknowledged, that the excise was a grievous mode of taxation, but it was affirmed to be the best for the revenue for many obvious reasons: and that the other branches of excise were far more grievous. And, in particular, a kind of parallel was drawn between the cyder-maker, the hop-grower, and maltster: the first had a liberty of compounding for 2*s.* a head; after which neither his house, nor even his orchard, could be entered by any officer, except as any other private house in the kingdom may, by oath of a suspicion of smuggled goods. The compounder too had a right to sell cyder, upon sending for an officer to gauge what he wanted to dispose of: and such an officer durst not enter any place but where he was directed, being obliged to gauge it at his street door, if the compounder ordered him. How different is the case with the hop-grower and maltster! They are both exposed to a survey: the former, whether he sells or not; and the latter is not allowed to sell, even though he compounds, without entering himself as a dealer. The grower of hops has often his very bed-chamber visited by an exciseman; for the poorer sort of farmers are obliged to dry

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and weigh their hops in their own houses. Another advantage which the maker of cyder enjoyed was, that he might, if he thought proper, only enter himself while his cyder was making, and have had the whole quantity charged with the duty: after which he might have withdrawn his entry, and the officer could have no farther right to come near him till he renewed it the following year.

In the House of Commons the Bill was sharply contested, and there were no less than six divisions upon it. However, all proved ineffectual. The Bill was sent up to the Lords.

Proceedings in the Lords on the Cyder Tax.] March 28. Lord Temple presented a petition of the lord mayor, aldermen, and commons of the city of London, in common council assembled, taking notice of a Bill depending in this House, for granting to his Majesty an additional duty on wine, cyder, and perry, whereby the makers of cyder and perry are subjected to the laws of excise; and alleging, "That the petitioners, with the deepest concern, consider this unexpected proceeding as preparatory to a general extension of those grievous laws; for, when new orders of men, by situation and profession distinct from traders, are rendered the objects of excise laws, the precedent is formidable, not to commerce only, but hath a fatal tendency, which the petitioners tremble to think of: that, as every attempt to enlarge the dominion of excise must awaken the petitioners' fears, it will also justify this their dutiful representation to their lordships: that, after all the burdens so cheerfully borne, all the hardships so patiently endured, and all the blood so freely spilt, in support of the late just, glorious, and successful war, the petitioners humbly hope, that the meritorious subjects of this country may not feel an extension of excise laws amongst the first fruits of peace;" and therefore praying, "That so much of the said Bill as subjects the makers of cyder and perry to the laws of excise may not pass into a law."*

The order of the day being then read for the second reading of a Bill entitled, "An Act for granting to his Majesty several additional duties upon wines imported into this kingdom, and certain duties on all Cyder and Perry; and for raising the sum of 3,500,000*l.*, by way of annuities and lotteries, to be charged on the said duties." The said Bill was accordingly read a second time; and it being proposed to commit the Bill, the same was objected to.—Contents 72; Proxies 11; Total 83.—Not Contents 48; Proxies 1; Total 49.

* "At the same time lord Bute was told, by his friend sir John Phillips, who said he had been informed by sir Richard Glyn, that there was another petition ready to be presented to the King. Wounded to the quick by a resolution to carry the voice of the people to the throne without his intervention, he directly sent sir John Phillips to assure the several gentlemen of the city committee, who were at that time in the lobby, that if they would stop their petition to the King, he would promise, that the act should be repealed next year. Upon which one of the committee said, Who can undertake for lord Bute's being minister next year; or for his having the same influence then, as now? Therefore they instantly despised such a wretched and invidious attempt, to dissuade them from their steady and laudable purpose, and declared, they would not trust to lord Bute's promise; and firmly assured him of their fixed intention to adhere to their resolution if the Bill should pass. In the evening a card from Mr. Jenkinson, at that time lord Bute's secretary, was brought to sir James Hodges, town-clerk of the city, desiring him to come next morning to lord Bute's in South Audley street. Sir James obeyed the message, and was introduced to the minister by his secretary. The minister desired he would go and acquaint the gentlemen of the committee, that if the petition to the King was not presented, he would promise to get the act repealed next session. Sir James immediately went to several of the gentlemen, and collected as many as he could to his office in Guildhall; where he told them what had passed between the minister and himself; but they despised and laughed at the tale, assuring him it was only a repetition of what had been said to them the day before. A short time after lord Temple happened to take notice of these secret and scandalous tamperings with the city. Upon which lord Bute got up and assured his auditors, upon his honour, that he had never promised directly, nor indirectly, his endeavours to procure a repeal of the Cyder Act, if the city of London would withdraw their petition to the King against passing it; and that the whole of such report was a factious lie. This assertion was considered as going so very strong against sir James Hodges, that doubts began to arise whether he had not been too officious in his late conference with the minister; and a court of common-council was called to make enquiry into his conduct. At this enquiry, which was upon oath, the above facts appeared to the entire satisfaction of all present; which clearly shewed who was the liar." History of the Minority, p. 109.

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Protest against committing the Cyder Bill.] After a long debate * thereupon, the question was put, whether this Bill shall be committed? It was resolved in the affirmative.

"Dissentient'

1. "Because we conceive there would have accrued less detriment to the public by rejecting this Bill, than by agreeing to it; since it would have been easy, had the Bill been rejected, to have provided the necessary supplies by some other ways and means, less dangerous to the public liberty than the extension of the laws of excise,

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* NOTES of Debate on the Bill for a Tax upon Cyder, March 28, 1763. From the Original in the hand-writing of the Earl of Hardwicke. [*This was the last time lord chancellor Hardwicke spoke in the House of Lords.*]

The Earl of *Hardwicke*. 1. Disagreeable option offered—Reject only extr. supply of the year—Or swallow this Bill entire and in the gross.

This Bill consists of four parts—Duty on Wine—Duty on Cyder and Perry—Method of levying the latter by Laws of Excise—Borrowing Clauses and Scheme of Loan.

Every one of them would naturally require more days to consider, than, report says, this session has to live.

Objections numberless—Impossible for me—tedious to your lordships—to go through them all.

Shall go upon two great lines of this Bill—

1. I look upon it as an extension and application of the Excise Laws to improper objects.

2. I look upon it as an additional land-tax upon the Cyder counties.

First Point.

All former laws; the plan of the Excise; confined to some particular trades or occupations—Do not extend to every subject, who may happen to do a particular act in the course of his family affairs.

Such persons give their names;—voluntarily subject themselves to such laws as are, or shall be, &c.

Such dealers have shops, warehouses, outhouses, &c. distinct.

In this case every person, who makes any quantity of Cyder above, &c. is subjected.

This arises from laying the tax upon the maker, and not on the first buyer or retailer; and in this the present Bill departs from the principle on which excises were admitted.

Goes beyond any Bill that has passed except that on Hops, which is particular;

And goes beyond that great one which failed—the Bill for an inland duty on Tobacco.

(State That.)

Second Point.

An additional land-tax on the Cyder counties.

The fruit for making Cyder and Perry is the great produce of their farms, by which their rents are raised.

The plantations of that fruit are not confined to orchards, grow *sparsim* in the inclosures of grass-grounds—now a feed off the grass—and at the proper season gather the fruit—growing promiscuously.

For all this they pay the land tax of four shillings in the pound.

They must naturally think it very hard that these country gentlemen, after having borne the burden and heat of the day;—cheerfully contributed to support a burdensome, though successful and glorious war, should be thus rewarded by an additional land-tax, which in consequence falls particularly on them.

It may be said—So is the Malt-tax.

I admit it; for the Malt-tax and many others fall upon the land; but that is common to the whole kingdom. Be it so—then this tax will be a 3d land-tax upon those counties in particular.

3. Lay aside this Bill—send up another.

Obj. Shortness of time.

Ans. An unparliamentary objection—A standing order of this House against making use of it—5th May 1668, No. 24. Read it.

What inconvenience if the session were prolonged till near Whitsuntide?

Lord *Lyttelton*, against. To be borne by all, in just and equal proportions, as far as possible.

Obj. 1. Introducing the powers of the Excise into the houses of farmers.

Obj. 2. Uncertainty of the produce of the tax, and deficiency of the duty.

Lord *Grosvenor*, *con.* Objects to the many different matters comprised in this Bill—complicated nature.

Earl *Temple*, *con.* This bargain was laid before the House of Commons on the 7th of March.

The annuities alone of 4 per cent. redeemable bear a premium of 2¾ per cent.—And yet they have two lottery tickets besides at 3 per cent. discount with the chance of a prize—The government should have taken credit in their bargain for the advanced profit.

Earl of *Halifax*. This scheme brought into the House of Commons—Excise no part of it.

Earl of *Bute**, *pro.* Lord Temple has touched upon two things:

1. The Loan.

2. Tax.

Why was Cyder first thought of?

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* "Lord Bute did not often speak in parliament: his delivery was very slow and solemn: in allusion to which Charles Townshend, during a speech which lord Bute made on the subject of the Cyder Tax, humourously exclaimed, '*minute guns.*'" Adolphus.

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over new orders of men, who, by mere ignorance and inadvertency, may be subjected to the severest penalties for things done in the common, ordinary and necessary management of their farms.

" 2. Because blending distinct matters in the same Money-Bills, lays this House under the utmost difficulties; since the alteration made by this House, to any parts of such Bill, may be an unavoidable obstruction to other parts of it, less liable to objection, and requiring greater expedition and dispatch: and we conceive, that to tack unto such a Bill, matters, which, for many reasons, ought to be kept separate and distinct, is destructive of all freedom of debate and all due deliberation, unparliamentary, highly derogatory to the privilege of the peers, and may be of dangerous consequence to the prerogatives of the crown.

3. " Because we apprehend that such parts of the said Bill as extend the laws of excise over the makers of Cyder and Perry, are not only injurious to the liberties of the subject, but particularly offensive to the dignity and privilege of the peers; since their houses may be visited and searched, and they themselves may incur the penalties of this Bill, to be levied upon them by justices of the peace, and commissioners of the excise: we are therefore doubly called upon to dissent from the passing of this Bill, by a due and just sense of the dignity and privilege of the peerage, and by a tender regard to the liberties and properties of the people, of which this House hath been always esteemed the hereditary and perpetual guardians.

4. " Because when we consider the great number of families, over whom and their posterities the laws of excise are extended by this Bill, the incapacity of farmers to comply with it, not only in respect to their ignorance, but to the nature of their business; the heavy penalties imposed for involuntary offences, summary and arbitrary method of trying and determining those offences, and of levying those penalties; the great and expensive increase of officers to be employed in collecting an inconsiderable and very uncertain revenue; and the influence of those officers, which, in critical times, may be employed to the worst of purposes; we cannot but be most seriously alarmed at a stretch of power, so wide, so unnecessary, and so unconstitutional.

" Foley,
" Oxford and Mortimer,
" Willoughby de Broke."

Protest against passing the Cyder Bill.] March 30. On the motion for passing the Bill, there was a second Protest, as follows:

" Dissentient.

1. " Because by this Bill our fellow subjects, who from the growth of their own orchards make Cyder and Perry, are subjected to the most grievous mode of excise; whereby private houses of peers, gentlemen, freeholders and farmers, are made liable to be entered and searched at pleasure. We deem this to be not only an intolerable oppression, affecting private property, and destructive of the peace and quiet of private families; but, to use the words of one of the first gracious acts of liberty, passed by our gracious deliverer, king William the 3rd, repealing the hearth money, " a badge of slavery."

2. " Because we think we owe it to our countrymen, who have so cheerfully submitted to the great load of taxes, which have been found necessary, in support of a just, prosperous, and glorious war; by every means in our power to mark our high disapprobation of the terms upon which 3,500,000*l.* have been borrowed on this loan without any material alteration since in the state of the public credit; an enormous profit of above 350,000*l.* is already made by such persons as have been favoured with shares in this private subscription. We apprehend, that in time of peace, an open subscription had not only been the fairest, but the cheapest method of borrowing any sums, which the necessities of the public might call for. It appears to us, by the votes of the House of Commons, that on the 8th of this instant, March, this bargain was first consented to by them; whereby a redeemable annuity of four per cent. is given to certain persons, who offered to advance this loan.

The first excise upon beer or malt,—a tax was laid upon Cyder—Continued so until 1760.

It is fit a tax should be laid upon Cyder as well as Beer—

And collected by the same methods—

No Excise-man break into a dwelling house.

Produce estimated at 75,000*l.*

A noble duke knows the difficulty to choose proper taxes.

Duke of *Newcastle*, *con.* Different from Beer or Ale—This laid upon the maker.

Earl of *Denbigh*. Is there a man who can wish that this Bill should not be committed?

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No less than two lotteries in one year, are now, for the first time, without any urgent necessity, established in the days of peace to the no small excitement of the pernicious spirit of gaming, which cannot be too much discountenanced by every state governed by wisdom, and a sober regard to the morals of the people. Two lottery tickets, bearing four per cent. interest, from the 5th day of April, 1763, are allowed at ten pounds each, to every subscriber of eighty pounds: whereas, interest at three per cent. and that to commence only in a future year, hath been given upon former lotteries, during the highest exigencies of the public; at a time too, when there was in contemplation a loss of no less than thirty per cent. upon every blank and every prize; and when no less a sum than twelve millions was borrowed for the service of the government. On the 8th of this instant, aforesaid, and for several days preceding, the general price of stock was very much upon an equality with that which they bear at present; nor hath any considerable variation happened in the great three per cent. and four per cent. annuity funds since that time. The redeemable annuity, exclusive of the profit so certainly to be made upon the lottery tickets, sells at a premium of two and a half per cent. and the advantage made upon the whole loan, including that on the lottery tickets, is from ten to eleven per cent. clear profit; whereby an exorbitant gain arises to individuals at the expence of the public.

"For these cogent and unrefuted reasons, we have thought it incumbent upon us to withstand, at the outset, such alarming proceedings; so repugnant to the principles of economy, and to the spirit of liberty; and by this solemn testimony to declare, that we are determined, upon all occasions, to endeavour to protect, as far as in us lies, the meanest of our fellow subjects from oppression of every kind.

"TEMPLE,
"BOLTON,
"FORTESCUE."

This was the first time the Lords were ever known to divide upon a Money Bill. The following lords composed the minority upon this question; viz. the dukes of Grafton, Bolton, Devonshire, Newcastle and Portland; marquis of Rockingham; earls of Suffolk, Plymouth, Oxford, Ferrers, Dartmouth, Bristol, Ashburnham, Temple, Cornwallis, Hardwicke, and Fauconberg; viscounts Torrington, Folkestone, and Spencer; lords Abergavenny, Willoughby de Broke, Ward, Foley, Ducie, Monson, Fortescue, Archer, Ponsonby, Walpole, Lyttleton, Sonds, Grantham, and Grosvenor; bishops of Ely, Hereford, Worcester, Litchfield, Norwich, Lincoln, Chichester, St. Asaph, and Oxford.

Supplies granted for the Year 1763.] The following are the Supplies granted for the service of the Year 1763.

	£.	s.	d.
DECEMBER 2.			
That 30,000 men be employed for the sea service for 1763, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month, be allowed for maintaining them, for 13 months, including ordnance for sea service	1,560,000	0	0
DECEMBER 7.			
For defraying the extraordinary expences of his Majesty's land forces, and other services incurred, from 25 Dec. 1761, to 31 Oct. 1762, both days inclusive, and not provided for by parliament	1,588,756	15	5
FEBRUARY 3.			
For the ordinary expences of the navy, including half pay to sea and marine officers, for 1763	380,661	3	11
For completing the works of the hospital for sick and wounded seamen, building near Plymouth	3,000	0	0
Upon account, to be applied by the commissioners, or governors, of Greenwich hospital, for the support and relief of seamen, worn out and become decrepit in the service of their country, who shall not be provided for within the said hospital	10,000	0	0
That provision be made, for enabling his Majesty to satisfy all the bills payable in course of the navy and victualling offices, and for transports, which were made out on, or before, the 31st Dec. 1762, amounting to the sum of	3,075,316	0	5
	3,468,977	4	2

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FEBRUARY 14.

That provisions be made for enabling his Majesty to satisfy all the debentures, payable out of his Majesty's office of ordnance, which were dated on, or before the 31st Dec. last, and remain undischarged, amounting to the sum of	595,423	2	5

FEBRUARY 17.

Towards enabling the commissioners for putting in execution an act made in the last session of parliament, intitled, An Act for paving Westminster streets, &c. more effectually to perform the trusts reposed in them	5,000	0	0

FEBRUARY 24.

To enable his Majesty to discharge the like sum, raised in pursuance of an act made in the last session of parliament, and charged upon the first aids and supplies to be granted in this session	1,000,000	0	0
Towards the buildings, rebuildings, and repairs, of his Majesty's ships for 1763	100,000	0	0
	1,100,000	0	0

FEBRUARY 28.

For defraying the extraordinary expence of his Majesty's land forces, and other services, incurred, from 1st Nov. 1762, to 19th Feb. 1763, and not provided for by parliament	951,249	0	6

MARCH 1.

For defraying the charge of 2,120 horse, and 9,900 foot, together with the general and staff officers, the officers of the hospital, and officers and others belonging to the train of artillery, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, for 90 days, from 25th Dec. 1762, to 24th March 1763, both days inclusive, together with the subsidies, pursuant to treaty	85,158	14	8
For defraying the charge of an additional corps of 920 horse and 6,072 foot, together with the general and staff officers, the officers of the hospital, and officers and others belonging to the train of artillery, the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, for 328 days, from 1st Jan. 1763, to 24th Nov. following, both days inclusive, pursuant to treaty	87,690	18	6
For defraying the charge of an augmentation to the troops of the landgrave of Hesse Cassel, in the pay of Great Britain, consisting of 656 horse, and 2,736 foot, for 335 days, from 25th Dec. 1762, to 24th Nov. 1763, both days inclusive, pursuant to treaty	45,420	16	6
For defraying the charge of 1,444 cavalry, and 2,330 infantry, the troops of the reigning duke of Brunswick, in the pay of Great Britain, for 86 days, from 25th Dec. 1762, to the 20th March, 1763, both days inclusive, together with the subsidies for the said time, pursuant to treaties	49,308	1	1
To make good a deficiency in the sum voted last session, for the pay of an augmentation to the troops of the reigning duke of Brunswick, for 1762	4,328	8	5
For the charge of the office of ordnance for land service, for 1763	204,329	0	0
	476,235	19	3

MARCH 7.

To enable his Majesty to pay off, and discharge, the exchequer bills made out by virtue of an act of last session, intitled, An Act for enabling his Majesty to raise a certain sum, &c. and charged upon the first aids, or supplies, to be granted in this session	1,500,000	0	0
For defraying the charge of 56,360 effective men, for guards and garrisons, and other his Majesty's land forces in Great Britain, Guernsey, and Jersey, including those in Germany, Portugal, and Belleisle for 121 days; from the 25th Dec. 1762, to 24th April 1763, both days inclusive, according to their present establishment, and for reducing their numbers	485,317	2	10
For maintaining his Majesty's forces and garrisons in the Plantations, Gibraltar, Guadaloupe, Africa, Martinico, and the Havannah, and for provisisions for the garrisons in Nova Scotia, Newfoundland, Gibraltar, Providence, Quebec, Guadaloupe, Senegal, and Goree, for 121 days, from 25th Dec. 1762, to 24th April, 1763, both days inclusive, according to their present establishment, and for reducing their numbers	278,893	11	0
For defraying the charge of four regiments of foot, serving in the East Indies, for 365 days, from 25th Dec. 1762, to 25th Dec. 1763, both days inclusive	71,391	16	8

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For defraying the charge of two regiments of horse, serving in Germany, and four regiments of foot serving in North America, on the Irish establishment, for 121 days, from 25th Dec. 1762, to 24th April 1763, both days inclusive	16,438	7	0
For the pay of the general and general staff officers, in Great Britain, for 1763	11,291	8	6½
That a number of land forces, including 2,743 invalids, amounting to 17,536 effective men, commissioned and noncommissioned officers included, be employed for 1763.			
For defraying the charge of the said number of land forces in Great Britain, Guernsey, and Jersey, from April 25, 1763, to the 24th Dec. following, both days inclusive, being 244 days	408,372	13	4
For maintaining his Majesty's forces and garrisons in the Plantations, including those in garrison at Minorca and Gibraltar, and for provisions for the garrisons in Nova Scotia, Newfoundland, Gibraltar, Quebec, and Senegal, for 244 days, from the 25th of April, 1763, to the 24th Dec. following, both days inclusive	281,781	3	6
	3,053,477	2	10½

MARCH 10.

For defraying the charge of the pay and clothing of the militia, for one year, beginning the 25th March 1763	150,000	0	0

MARCH 15.

To enable his Majesty to complete the payment of 220,000*l.* as a reasonable succour in money, to the landgrave of Hesse Cassel, pursuant to treaty	50,000	0	0
To make good the deficiency of the half-subsidies of tonnage and poundage, charged with the payment of several annuities, by the acts made in the 6th of queen Anne, and the 6th of king George 1, to satisfy all annuities charged thereupon, to the 5th Jan. 1763	49,558	1	6
To replace to the sinking fund the like sum paid out of the same, to make good the deficiency on the 5th of July 1762, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund by an act 31 Geo. 2, for paying annuities at the bank of England, in respect of 5,000,000*l.* borrowed towards the supply for 1758	48,891	14	11
To replace to the sinking fund the like sum paid out of the same to make good the deficiency on Jan. 5, 1762, of additional duty upon strong beer and ale, to answer and pay the several annuities of 3*l.* per cent. and 1*l.* 2*s.* 6*d.* per cent. on 1,140,000*l.* part of twelve millions borrowed towards the supply granted by an act of the 1st Geo. 3, for 1761	26,710	0	0
Upon account, towards enabling the governors and guardians of the Foundling hospital, to maintain, and educate such children, as were received into the said hospital, on, or before the 25th of March 1760, from the 31st Dec. 1762, exclusive, to the 31st Dec. inclusive, and that the said sum be issued and paid for the use of the said hospital, without fee or reward, or any deduction whatsoever	40,050	0	0
Upon account, for defraying the charges incurred, by supporting and maintaining the settlement of Nova Scotia in 1760, and not provided for by parliament	4,589	13	11½
Upon account, for maintaining and supporting the civil establishment of Nova Scotia, for 1763	5,674	1	10
Upon account, for defraying the charges of the civil establishment of Georgia, and other incidental expences attending the same, from the 24th June 1762, to the 24th June 1763	4,136	0	0
	229,609	12	2½

MARCH 17.

Upon account, to enable his Majesty to give a proper compensation to the respective provinces in North America, for the expences incurred by them in the levying, clothing and pay, of the troops raised by the same, according as the active vigour, and strenuous efforts, of the respective provinces shall be thought, by his Majesty, to merit	133,333	6	8
To make good the deficiency of the grants for 1762	7,151	9	1½
To be employed in maintaining and supporting the fort at Anamaboo, and the other British forts and settlements upon the coast of Africa	13,000	0	0

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For paying of pensions to the widows of such reduced officers of the land-forces and marines, as died upon the establishment of half pay in Great Britain, and who were married to them before the 25th Dec. 1716, for 1763	1,742	0	0
Upon account of the reduced officers of his Majesty's land forces and marines, for 1763	33,351	17	6
Upon account of the reduced officers of his Majesty's land forces already disbanded, and such as are to be disbanded, for 1763	88,704	3	4
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards, and regiment of horse reduced, and to the superannuated gentlemen of the four troops of horse guards, for 1763	2,910	1	8
To be paid as a reward to John Harrison, upon a proper discovery to be made by him, for the use of the public, of the principles upon which his instrument, for measuring time at sea, is constructed, and that the said sum be applied for the purpose aforesaid, out of any money unapplied to the use of the navy, in the hands of the treasurer of the navy	5,000	0	0
	235,192	18	3½
MARCH 19.			
To make good to his Majesty the like sum, which has been issued by his Majesty's orders, in pursuance of the addresses of this House	6,410	10	0½
Upon account, for out-pensioners of Chelsea hospital, for 1763	51,708	13	4
	58,118	19	2½
Total of the Supplies granted this session £.	13,522,040	14	4½

*The King's Speech at the Close of the Session.**] April 19. The King put an end to the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I cannot put an end to this session of parliament, without expressing my thanks for the signal zeal and dispatch which you have manifested in your proceedings, and which make it unnecessary for me to continue it any longer.

"I informed you, at your first meeting,

* "On the 8th of April, soon after the passing of the Cyder tax, when lord Bute's friends and enemies considered him so permanently fixed in office that the long labours of a well-united opposition would be requisite for his expulsion, he astonished the public by a sudden resignation. Sir Francis Dashwood followed his example. Mr. Grenville succeeded them both as first lord of the treasury, and chancellor of the exchequer; and notice was given to the foreign ministers, that his majesty had confided the executive powers of government to Mr. Grenville, lord Halifax, and lord Egremont. A place in the cabinet was offered to Mr. Pitt, but he insisted on such extravagant terms, that the King could not in honour comply: he demanded the removal of every person who had in any manner been engaged in making the peace: and even required that the terms of the treaty should be meliorated. The King answered, he would never withdraw his protection from those whose conduct he approved, or reprobate measures which he had sanctioned with his approbation.

"The principal cause of his resignation was the want of support in the cabinet. In a private letter to one of his friends, before he retired from the helm, he more fully explained the real motives of his conduct: "Single," he said, "in a cabinet of my own forming; no aid in the House of Lords to support me, except two peers (lords Denbigh and Pomfret); both the secretaries of state silent, and the lord chief justice, whom I myself brought into office, voting for me, yet speaking against me; the ground I tread upon is so hollow, that I am afraid, not only of falling myself, but of involving my royal master in my ruin. It is time for me to retire!"

"The continuance of the ex-minister's secret influence in the closet for a considerable period, has been so repeatedly and confidently asserted, that to doubt it would seem rashness; yet, perhaps, if we except the negotiations for ministerial changes soon after his resignation, in which he was occasionally the medium to communicate the king's intentions, no report was ever less consonant to truth; for it was his constant and repeated complaint to his intimate friends, both on his travels and at home, that he was neglected by his sovereign. This avowal, from a man so cautious as lord Bute, outweighs all the vague assertions of those who maintained the existence of a mysterious agency, and proves that the loss of his influence had sunk deep in his mind.

"The cabinet, which had always been considered as extremely weak, was, on the 21st of August, still further enfeebled by the death of lord Egremont, whose great abilities and influence gave weight to his measures. Lord Bute, sensible the ministry could not continue,

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that Preliminary Articles were signed by my minister and those of France and Spain: I ordered them to be laid before you; and the satisfaction which I felt at the approaching re-establishment of peace, upon conditions so honourable to my crown, and so beneficial to my people, was highly increased by my receiving from both Houses of Parliament the strongest and most grateful expressions of their entire approbation. These articles have been established, and even rendered still more

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waited on Mr. Pitt, and obtaining a clear statement of his opinions with respect to men and measures, procured for him an interview with the King at Buckingham house. Mr. Pitt's situation was thus rendered extremely delicate: to refuse advice and assistance, when solicited by the King, was impossible; but, as the jealous vigilance of opposition was ever ready to take alarm, a certain degree of publicity was the best means of avoiding suspicion. He went through the Mall in his gouty chair at noon-day, the boot of which (as he said himself) made it as well known, as if his name was written upon it. His Majesty received him most graciously, and, during an audience of three hours, listened to him with great patience and attention. Mr. Pitt descanted on the infirmities of the peace; the things necessary, and hitherto neglected, to improve and preserve it; the state of the nation both foreign and domestic; and specified the great Whig families who had been driven from his Majesty's service, whom it would be for his interest to restore. The King made no objections to any of these statements, except by saying, that his honour must be preserved; and directed Mr. Pitt to attend him again on the twenty-ninth.

"Mr. Pitt well satisfied, from his Majesty's apparent acquiescence, that a cabinet would be formed, according to his suggestions, on a whig basis, repaired without a moment's delay to Claremont, and arranged with the duke of Newcastle the new administration. He also undertook to apprize the duke of Devonshire, and the marquis of Rockingham: the duke of Newcastle was to inform lord Hardwicke.

"The next audience subverted these hopes; for, when Mr. Pitt named his coadjutors, the King mentioned some persons whom he wished to introduce into the administration, and laid down a plan for a general arrangement. Mr. Pitt, without circumlocution, told his Majesty that a ministry could not be carried on without the noble families, who had supported the revolution government, and other great persons in whose abilities and tried integrity the public confided from experience, and who had weight and credit with the nation. His Majesty suddenly terminated the conference, by saying, "Well, Mr. Pitt, I see (or I fear) this will not do. My honour is concerned, and I must support it."

"This treaty having failed, the duke of Bedford was appointed lord president of the council, lord Sandwich secretary of state, lord Egmont was placed at the head of the admiralty, and Mr. Grenville retained his situation of first lord of the treasury and chancellor of the exchequer: this was called the duke of Bedford's ministry. Their career began at an inauspicious moment, when the whole nation seemed replete with jealously, alarm, and discontent. Mr. Pitt alone could have effectually assuaged the popular irritability; but the King was precluded from benefiting by his popularity." Adolphus.

"But scarcely was the Cyder Bill passed, when the kingdom was astonished with the intelligence of the resignation of the minister, who having, as he boasted, restored peace to the world, forfeited no engagement, abandoned no friend, and formed a ministerial connection so powerful as no longer to need his assistance, was now determined, by retiring "to the blessings of the life he loved," to demonstrate that ministerial greatness had for him no charms. All his political purposes he had completely attained; and, by voluntarily divesting himself of his public authority, he was solicitous to show, that in his private capacity he dared the utmost malice and vengeance of his enemies. These motives were however of a nature by which men even the most virtuous, and particularly statesmen, are so rarely actuated, that little credit was given by the public at large to professions of moderation and disinterestedness so inconsistent with those measures of alternate artifice and violence, by which the late minister had attained to the summit of that power and greatness to which he now pretended a frigid and philosophical indifference. It was affirmed with boldness by his enemies, and faintly controverted by his friends, that, although his pride would not suffer him to recede from a measure he had once adopted, he found himself on the passing of the late unpopular act in a situation which he had neither the ability nor the fortitude to sustain. Conscious that he was the object of the general abhorrence—that to him alone was imputed the dismission of the late popular and patriotic ministers—that he was charged with having betrayed the interests of the nation by the late shameful treaty of peace—that he had abused the confidence of his sovereign by introducing a system of favouritism into the administration of affairs—that his partiality to his countrymen the Scots was gross and palpable—that he had sacrificed the honour of the King and kingdom abroad, by abandoning to his fate our ally the king of Prussia—and that by the general tenor of his domestic policy he had given clear proof of his intention to establish a plan of despotism at home—conscious that these charges, whether well or ill founded, were almost universally believed, and that he stood on that pinnacle of power from

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advantageous to my subjects, by the Definitive Treaty; and my expectations have been fully answered, by the happy effects which the several allies of my crown have derived from this salutary measure. The powers at war with my good brother the king of Prussia have been induced to agree to such terms of accommodation as that great prince has approved; and the success which has attended my negociation has necessarily, and immediately, diffused the blessings of peace through every part of Europe.

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which he might be suddenly plunged into the gulph of political perdition, it was no wonder in circumstances so perilous that he wished, while yet within his reach, to secure a safe and honourable retreat; and knowing his influence over the mind of his sovereign to exist in undiminished force, it would be easy for him at a more propitious season openly to re-assume the direction of affairs, or, which better accorded with the mystery and artifice pervading his whole character and conduct, whoever might be permitted to occupy the ostensible posts, secretly to guide the reins of government, and thus to enjoy the reality of ministerial power without subjecting himself to the responsibility constitutionally attached to it.

"To the earl of Bute succeeded as first commissioner of the treasury, Mr. George Grenville, brother to earl Temple, a man accurately versed in the routine of business, practised in all the punctilios of form, and the minutiæ of office; open and affable in his manners; not deficient in probity, although ambitious of distinction. But though his abilities were of a class to entitle him in a subordinate station to respect, he was utterly destitute of those commanding talents, that intuitive sagacity, and intellectual comprehension, which mark the man whom nature seems to have destined to the government of empires.

"On the death of lord Egremont, which took place nearly at this period, the seals were given to the earl of Sandwich; the earl of Egmont was advanced to the head of the admiralty; and the duke of Bedford, now returned from his embassy to Paris, was appointed president of the council in the room of the famous earl Granville, who had for many years past, and to the close of life, under all the changing vicissitudes of power, occupied with the highest reputation that honourable and exalted office. In consequence of the retreat of the earl of Bute, a general coalition of parties seemed now to be again practicable, and overtures to that purpose were made to Mr. Pitt, and the other leaders in opposition: but after repeated conferences, the negociations terminated ineffectually; the King declaring, that the terms insisted on by Mr. Pitt were incompatible with his dignity, and of a nature to which he could not in honour accede: and the new administration seemed resolved to refer to the decision of experience, whether they were not competent, by their own unassisted strength, in defiance of all opposition both in and out of parliament, to establish an efficient government." Belsham.

"While the minister was by numbers considered, and by many more represented, as meditating the most destructive designs to be effected by his power, to the surprise of the public, as soon as his financial measures were passed, he relinquished his employment, 'Having (he said) restored peace to the world, performed his engagements, and established a connection so strong as no longer to need his assistance, he would now depart to the domestic and literary retirement which he loved.'

"Few ministers have been more generally hated than lord Bute was by the English nation; yet, if we estimate his conduct from facts, without being influenced by local or temporary prejudices, we can by no means find just grounds for the odium which he incurred. It is true, an impartial reviewer can find nothing in his political character to justify the praises of some of his supporters, but still less will be found to justify the obloquy of many of his satirists. As a war minister, though his plans discovered little of original genius, and naturally proceeded from the measures of his predecessor, the general state of our resources, the conquests achieved, and the disposition of our fleets and armies, yet they were judicious; the agents appointed to carry them into execution were selected with discernment, and the whole result was successful. His desire of peace, after so long and burthensome a war, was laudable, but perhaps too eagerly manifested. As a negociator, he did not procure the best terms, which, from our superiority, might have been obtained. His project of finance, in itself unobjectionable, derived its impolicy from the unpopularity of his administration. Exposed from unfounded prejudices to calumny, he deserved and earned dislike by his haughty deportment. The manners which custom might have sanctioned from an imperious chieftain to his servile retainers in a remote corner of the island, did not suit the independent spirit of the English metropolis. The respectable mediocrity of his talents with the suitable attainments, and his decent moral character, deserved an esteem which his manners precluded. Since he could not, like Pitt, command by superior genius, he ought, like the duke of Newcastle, to have conciliated by affable demeanour. His partisans have praised the tenacity of lord Bute in his purposes; a quality which, guided by wisdom in the pursuit of right objects, and combined with power to render success ultimately probable, is magnanimous firmness; but, without these requisites, is stubborn obstinacy. No charge has been more frequently made against lord Bute, than that he was a promoter of arbitrary principles and measures. This is an accusation for which its supporters could

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"I acquainted you with my firm resolution to form my government on a plan of strict economy. The reductions necessary for this purpose shall be completed with all possible expedition: and although the army maintained in these kingdoms will be inferior in number to that usually kept up in former times of peace; yet I trust that the force proposed with the establishment of the national militia

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find no grounds in his particular acts; they endeavoured, therefore, to establish their assertion by circuitous arguments. Lord Bute had been the means of dispossessing the Whig connection of power, and had given Scotchmen appointments which were formerly held by the friends of the duke of Newcastle. To impartial investigation, however, it appears evident that lord Bute merely preferred himself, as a minister, to the duke of Newcastle: if we examine his particular nominations, we shall find that he neither exalted the friends of liberty nor despotism, but his own friends. It would probably have been better for this country had lord Bute never been minister; but all the evils that may be traced to that period, did not necessarily proceed from his measures, as many of them flowed from circumstances over which he had no controul. Candour must allow, that the comprehensive principle on which his Majesty resolved to govern, was liberal and meritorious, though patriotism may regret that he was not more fortunate in his first choice. The administration of lord Bute teaches an instructive lesson, that no man can be long an effectual minister of this country, who will not occasionally attend, not only to the well-founded judgment, but also to the prejudices, of Englishmen." Bisset.

The Earl of Hardwicke, in a Letter which he wrote to his son, Lord Royston, gives the following Account of Mr. Pitt's Interview with Lord Bute, and of his two Conferences with the King, which took place in consequence of it:

"*Wimpole, Sunday, Sept.* 4, 1763.

"I have heard the whole from the duke of Newcastle, and on Friday morning *de source* from Mr. Pitt. It is as strange as it is long, for I believe it is the most extraordinary transaction that ever happened in any court in Europe, even in times as extraordinary as the present.

"It began as to the substance, by a message from my lord Bute to Mr. Pitt at Hayes, through my lord-mayor, to give him the meeting privately at some third place. This his lordship (lord B.) afterwards altered by a note from himself, saying, that as he loved to do things openly, he would come to Mr. Pitt's house in Jermyn-street in broad daylight. They met accordingly, and lord Bute, after the first compliments, frankly acknowledged that his ministry could not go on, and that the King was convinced of it, and therefore he (lord B.) desired that Mr. Pitt would open himself frankly and at large, and tell him his ideas of things and persons with the utmost freedom. After much excuse and hanging back, Mr. Pitt did so with the utmost freedom indeed, though with civility. Lord Bute heard with great attention and patience, entered into no defence, but at last said, "If these are your opinions, why should you not tell them to the King himself, who will not be unwilling to hear you?" "How can I, my lord, presume to go to the King, who am not of his council, nor in his service, and have no pretence to ask an audience? The presumption would be too great." "But suppose his Majesty should order you to attend him, I presume, Sir, you would not refuse it." "The King's command would make it my duty, and I should certainly obey it."

"This was on last Thursday se'nnight (August 25.) On the next day Mr. Pitt received from the King an open note unsealed, requiring him to attend his Majesty on Saturday noon, at the Queen's palace in the Park. In obedience hereto, Mr. Pitt went on Saturday at noon-day through the Mall in his gouty chair, the boot of which (as he said himself) makes it as much known as if his name was writ upon it, to the Queen's palace. He was immediately carried into the closet, received very graciously, and his Majesty began in like manner as his quondam favourite had done, by ordering him to tell him his opinion of things and persons at large, and with the utmost freedom; and I think did in substance make the like confession, that he thought his present ministers could not go on. The audience lasted three hours, and Mr. Pitt went through the whole, upon both heads, more fully than he had done to lord Bute, but with great complaisance and *douceur* to the King; and his Majesty gave him a very gracious *accueil*, and heard with great patience and attention: and Mr. Pitt affirms that, in general, and upon the most material points, he appeared by his manner, and many of his expressions, to be convinced. Mr. Pitt went through the infirmities of the peace, the things necessary and hitherto neglected to improve and preserve it; the present state of the nation, both foreign and domestic; the great Whig families and persons who had been driven from his Majesty's council and service, which it would be for his interest to restore. In doing this he repeated many names, upon which his Majesty told him there was pen, ink, and paper, and he wished he would write them down. Mr. Pitt humbly excused himself, saying, that would be too much for him to take upon him, and he might, upon his memory, omit some material persons, which might be subject to imputation. The King still said he liked to hear him, and bid him go on, but said now and then that his honour must be consulted; to which Mr. Pitt answered in a

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(whose services I have experienced, and cannot too much commend), will prove a sufficient security for the future.

"Gentlemen of the House of Commons,

"I have seen with the highest concern the great anticipations of the revenue, and the heavy debts unprovided for during the late war; which have reduced you to the unhappy necessity of imposing further burdens upon my people. Under these circumstances, it is my earnest wish to contribute by every means to their relief. The utmost frugality shall be observed in

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very courtly manner. His Majesty ordered him to come again on Monday, which he did to the same place, and in the same public manner.

"Here comes in a parenthesis, that on Sunday Mr. Pitt went to Claremont, and acquainted the duke of Newcastle with the whole, fully persuaded from the King's manner and behaviour, that the thing would do; and that on Monday the outlines of the new arrangement would be settled. This produced the messages to those lords who were sent for. Mr. Pitt undertook to write to the duke of Devonshire and the marquis of Rockingham, and the duke of Newcastle to myself.

"But behold the catastrophe of Monday. The King received him equally graciously; and that audience lasted near two hours. The King began, that he had considered of what had been said, and talked still more strongly of his honour. His Majesty then mentioned lord Northumberland for the treasury, still proceeding upon the supposition of a change. To this Mr. Pitt hesitated an objection—that certainly lord Northumberland might be considered, but that he should not have thought of him for the treasury. His Majesty then mentioned lord Halifax for the treasury. Mr. Pitt said, Suppose your Majesty should think fit to give his lordship the pay-master's place. The King replied, "But Mr. Pitt, I had designed that for poor George Grenville. He is your near relation, and you once loved him." To this the only answer made was a low bow. And now here comes the bait.—"Why," says his Majesty, "should not lord Temple have the treasury? You could go on then very well." "Sir, the person whom you shall think fit to honour with the chief conduct of your affairs, cannot possibly go on without a treasury connected with him; but that alone will do nothing. It cannot be carried on without the great families who have supported the Revolution government, and other great persons of whose abilities and integrity the public have had experience, and who have weight and credit in the nation. I should only deceive your Majesty if I should leave you in an opinion that I could go on, and your Majesty make a solid administration, on any other foot." "Well, Mr. Pitt, I see (or I fear) this won't do. My honour is concerned, and I must support it"—*Et sic finita est fabula. Vos valete*, but I cannot with a safe conscience add *plaudite*. I have made my skeleton larger than I intended at first, and I hope you will understand it. Mr. Pitt professes himself firmly persuaded that my lord Bute was sincere at first, and that the King was in earnest the

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first day; but that on the intermediate day, Sunday, some strong effort was made, which produced the alteration.

"Mr. Pitt likewise affirms, that if he was examined upon oath, he could not tell upon what this negociation broke off, whether upon any particular point, or upon the general complexion of the whole.

"It will certainly be given out, that the reason was the unreasonable extent of Mr. Pitt's plan—a general rout; and the minority, after having complained so much of proscriptions, have endeavoured to proscribe the majority. I asked Mr. Pitt the direct question, and he assured me that, although he thought himself obliged to name a great many persons for his own exculpation, yet he did not name above five or six for particular places. I must tell you that one of these was your humble servant for the president's place. This was entirely without my authority or privity. But the king's answer was, "Why, Mr. Pitt, it is vacant and ready for him, and he knows he may have it to-morrow if he thinks fit."

"I conjectured that this was said with regard to what had passed with poor lord Egremont, which made me think it necessary to tell Mr. Pitt in general what had passed with that lord (not owning that his lordship had offered it directly in the King's name), and what I had answered, which he, in his way, much commended.

"This obliges me to desire that you will send by the bearer my letter to you, which you were to communicate to my lord Lyttleton, that I may see how I have stated it there, for I have no copy.

"I shall now make you laugh, though some parts of what goes before make me melancholy, to see the King so committed, and his Majesty submitting to it, &c. But what I mean will make you laugh is, that the ministers are so stung with this admission, that they cannot go on (and what has passed on this occasion will certainly make them less able to go on), and with my lord Bute's having thus carried them to market in his pocket, that they say lord Bute has attempted to sacrifice them to his own fears and timidity; that they do not depend upon him, and will have nothing more to do with him. And I have been very credibly informed, that both lord Halifax and George Grenville have declared that he is to go beyond the sea, and reside for a twelvemonth or more. You know a certain cardinal was twice exiled out of France, and governed France as absolutely whilst he was absent as when he was present."

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the disposition of the supplies which you have granted; and when the accompts of the money arising from the sale of such prizes as are vested in the crown shall be closed, it is my intention to direct that the produce shall be applied to the public service.

"My Lords, and Gentlemen,

"The extension of the commerce of my subjects, the improvement of the advantages we have obtained, and the increase of the public revenue, are the proper works of peace. To these important and necessary objects my attention shall be directed. I depend upon your constant care, to promote, in your several counties, that spirit of concord, and that obedience to law, which is essential to good order, and to the happiness of my faithful subjects. It is your part to discourage every attempt of a contrary tendency: it shall be mine, firmly to maintain the honour of my crown, and to protect the rights of my people."*

The Parliament was then prorogued to the 3rd of June; and was afterwards further prorogued to the 15th of November.

THIRD SESSION
OF THE
TWELFTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] November 15, 1763. His Majesty opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"The re-establishment of the public tranquillity, upon terms of honour and advantage to my kingdoms, was the first great object of my reign; that salutary measure has received the approbation of my parliament, and has since been happily completed, and carried into execution by

* The Forty Fifth Number of the NORTH BRITON, published on the 23d of April, contained the following strictures upon this Speech.

'Genus orationis atrox, et vehemens, cui 'opponitur lenitatis et mansuetudinis.'
CICERO.

"The King's Speech has always been considered by the legislature, and by the public at large, as the speech of the minister. It has regularly at the beginning of every session of parliament, been referred by both Houses to the consideration of a committee, and has been generally canvassed with the utmost freedom, when the minister of the crown has been obnoxious to the nation. The ministers of this free country, conscious of the undoubted privileges of so spirited a people, and with the terrors of parliament before their eyes, have ever been cautious, no less with regard to the matter, than to the expressions, of speeches, which they have advised the sovereign to make from the throne, at the opening of each session. They well knew that an honest House of Parliament, true to their trust, could not fail to detect the fallacious arts, or to remonstrate against the daring acts of violence, committed by any minister. The speech at the close of the session has ever been considered as the most secure method of promulgating the favourite court creed among the vulgar; because the parliament which is the constitutional guardian of the liberties of the people, has in this case no opportunity of remonstrating, or of impeaching any wicked servant of the crown.

"This week has given the public the most abandoned instance of ministerial effrontery ever attempted to be imposed on mankind. The Minister's Speech of last Tuesday is not to be paralleled in the annals of this country. I am in doubt, whether the imposition is greater on the sovereign, or on the nation. Every friend of his country must lament that a prince of so many great and amiable qualities, whom England truly reveres, can be brought to give the sanction of his sacred name to the most odious measures, and to the most unjustifiable public declarations, from a throne ever renowned for truth, honour, and unsullied virtue. I am sure all foreigners, especially the king of Prussia, will hold the minister in contempt and abhorrence. He has made our sovereign declare, 'My expectations have been fully 'answered by the happy effects which the 'several allies of my crown have derived from 'this salutary measure of the Definitive Treaty. 'The powers at war with my good brother, 'the king of Prussia, have been induced to 'agree to such terms of accommodation, as 'that great prince has approved; and the success which has attended my negociation, has 'necessarily and immediately diffused the 'blessings of peace through every part of 'Europe." The infamous fallacy of this whole sentence is apparent to all mankind: for it is known, that the king of Prussia did not barely approve, but absolutely dictated, as conqueror, every article of the terms of peace. No advantage of any kind has accrued to that magnanimous prince from our negociation, but he was basely deserted by the Scottish prime-minister of England. He was known by every court in Europe to be scarcely on better terms of friendship here, than at Vienna; and he was betrayed by us in the treaty of peace. What a strain of insolence, therefore, is it in a minister to lay claim to what he is conscious all his efforts tended to prevent, and meanly to

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the Definitive Treaty. It has been, and shall be, my endeavour to ensure the continuance of the peace, by a faithful and steady adherence to the conditions upon which it was concluded. And I have the satisfaction to acquaint you, that the several powers of Europe, who were engaged against us in the late war, have given me the strongest assurances of the same good disposition. Our principal care ought now to be employed, to improve the valuable acquisitions which we have made, and

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arrogate to himself a share in the fame and glory of one of the greatest princes the world has ever seen? The king of Prussia, however, has gloriously kept all his former conquests, and stipulated security for all his allies, even for the elector of Hanover. I know in what light this great prince is considered in Europe, and in what manner he has been treated here; among other reasons, perhaps, from some contemptuous expressions he may have used of the Scot: expressions which are every day echoed by the whole body of Englishmen through the southern part of this island.

"The Preliminary Articles of Peace were such as have drawn the contempt of mankind on our wretched negociators. All our most valuable conquests were agreed to be restored, and the East India company would have been infallibly ruined by a single article of this fallacious and baneful negociation. No hireling of the minister has been hardy enough to dispute this; yet the minister himself has made our sovereign declare, 'the satisfaction which 'he felt at the approaching re-establishment 'of peace upon conditions so honourable to his 'crown, and so beneficial to his people.' As to the entire approbation of parliament, which is so vainly boasted of, the world knows how that was obtained. The large debt on the Civil List, already above half a year in arrear, shews pretty clearly the transactions of the winter. It is, however, remarkable, that the Minister's Speech dwells on the entire approbation given by parliament to the Preliminary Articles, which I will venture to say, he must by this time be ashamed of: for he has been brought to confess the total want of that knowledge, accuracy and precision, by which such immense advantages both of trade and territory, were sacrificed to our inveterate enemies. These gross blunders are, indeed, in some measure set right by the Definitive Treaty; yet, the most important articles, relative to cessions, commerce, and the fishery, remain as they were, with respect to the French. The proud and feeble Spaniard too does not renounce, but only desists from all pretensions, which he may have formed, to the right of fishing—where? only about the island of Newfoundland—till a favourable opportunity arises of insisting on it, there, as well as elsewhere.

"The minister cannot forbear, even in the King's Speech, insulting us with a dull repetition of the word 'œconomy.' I did not expect so soon to have seen that word again, after it had been so lately exploded, and more than once, by a most numerous audience, hissed off the stage of our English theatres. It is held in derision by the voice of the people, and every tongue loudly proclaims the universal contempt, in which these empty professions are held by this nation. Let the public be informed of a single instance of œconomy, except indeed in the houshold? Is a regiment, which was completed as to its complement of officers on the Tuesday, and broke on the Thursday, a proof of œconomy? Is the pay of the Scottish Master Elliot to be voted by an English parliament, under the head of œconomy? Is this, among a thousand others, one of the convincing proofs of a 'firm resolution to form govern-'ment on a plan of strict œconomy?' Is it not notorious, that in the reduction of the army, not the least attention has been paid to it. Many unnecessary expences have been incurred, only to encrease the power of the crown, that is, to create more lucrative jobs for the creatures of the minister? The staff, indeed, is broke, but the discerning part of mankind immediately comprehended the mean subterfuge, and resented the indignity put upon so brave an officer, as marshal Ligonier. That step was taken to give the whole power of the army to the crown, that is, to the minister. Lord Ligonier is now no longer at the head of the army; but lord Bute in effect is: I mean that every preferment given by the crown will be found still to be obtained by his enormous influence, and to be bestowed only on the creatures of the Scottish faction. The nation is still in the same deplorable state, while he governs, and can make the tools of his power pursue the same odious measures. Such a retreat, as he intends, can only mean that personal indemnity, which, I hope, guilt will never find from an injured nation. The negotiations of the late inglorious peace, and the excise, will haunt him, wherever he goes, and the terrors of the just resentment, which he must be to meet from a brave and insulted people, and which must finally crush him, will be for ever before his eyes.

"In vain will such a minister, or the foul dregs of his power, the tools of corruption and despotism, preach up in the speech that 'spirit 'of concord, and that obedience to the laws, 'which is essential to good order.' They have sent the spirit of discord through the land, and I will prophesy, that it will never be extinguished, but by the extinction of their power. Is the spirit of concord to go hand in hand with the Peace and Excise through this nation? Is it to be expected between an insolent exciseman, and a peer, gentleman, freeholder, or farmer, whose private houses are now made liable to be entered and searched at pleasure? Gloucestershire, Herefordshire, and in general all the cyder counties, are not surely the seve-

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to cultivate the arts of peace in such a manner as may most effectually contribute to extend the commerce, and to augment the happiness, of my kingdoms.

"For these great purposes, I have called you together. It will ever be my earnest wish and endeavour, to demonstrate to my people, by my actions, the love which I bear them; and I doubt not of receiving from them the grateful and just returns of duty and affection.

"Gentlemen of the House of Commons,

"I will order the proper Estimates for

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ral counties, which are alluded to in the speech. The spirit of concord has not gone forth among them; but the spirit of liberty has, and a noble opposition has been given to the wicked instruments of oppression. A nation as sensible as the English, will see that a spirit of concord, when they are oppressed, means a tame submission to injury, and that spirit of liberty ought then to arise, and I am sure ever will, in proportion to the weight of the grievance they feel. Every legal attempt of a contrary tendency to the spirit of concord will be deemed a justifiable resistance, warranted by the spirit of the English constitution.

"A despotic minister will always endeavour to dazzle his prince with high-flown ideas of the prerogative and honour of the crown, which the minister will make a parade of firmly maintaining. I wish as much as any man in the kingdom to see the honour of the crown maintained in a manner truly becoming royalty. I lament to see it sunk even to prostitution. What a shame was it to see the security of this country, in point of military force, complimented away, contrary to the opinion of royalty itself, and sacrificed to the prejudices and to the ignorance of a set of people, the most unfit from every consideration to be consulted on a matter relative to the security of the House of Hanover? I wish to see the honour of the crown religiously asserted with regard to our allies, and the dignity of it scrupulously maintained with regard to foreign princes. Is it possible such an indignity can have happened, such a sacrifice of the honour of the crown of England, as that a minister should already have kissed his majesty's hand on being appointed to the most insolent and ungrateful court in the world, without a previous assurance of that reciprocal nomination which the meanest court in Europe would insist upon, before she proceeded to an act otherwise so derogatory to her honour; But Electoral Policy has ever been obsequious to the court of Vienna, and forgets the insolence with which count Colloredo left England. Upon a principle of dignity and œconomy, lord Stormont, a Scottish peer of the loyal house of Murray, kissed his Majesty's hand, I think, on Wednesday in the Easter week; but this ignominious act has not yet disgraced the nation in the London Gazette. The ministry are not ashamed of doing the thing in private; they are only afraid of the publication. Was it a tender regard for the honour of the late King, or of his present Majesty, that invited to court lord George Sackville, in these first days of peace, to share in the general satisfaction, which all good courtiers received in the indignity offered to lord Ligonier, and on the advancement of ———. Was this to shew princely gratitude to the eminent services of the accomplished general of the House of Brunswick, who has had so great a share in rescuing Europe from the yoke of France; and whose nephew we hope soon to see made happy in the possession of the most amiable princess in the world? Or, is it meant to assert the honour of the crown only against the united wishes of a loyal and affectionate people, founded in a happy experience of the talents, ability, integrity, and virtue of those, who have had the glory of redeeming their country from bondage and ruin, in order to support, by every art of corruption and intimidation, a weak, disjointed, incapable set of —— I will call them any thing but ministers—by whom the Favourite still meditates to rule this kingdom with a rod of iron.

"The Stuart line has ever been intoxicated with the slavish doctrines of the absolute, independent, unlimited power of the crown. Some of that line were so weakly advised, as to endeavour to reduce them into practice: but the English nation was too spirited to suffer the least encroachment on the ancient liberties of this kingdom. The king of England is only the first magistrate of this country; but is invested by law with the whole executive power. He is, however, responsible to his people for the due execution of the royal functions, in the choice of ministers, &c. equally with the meanest of his subjects in his particular duty. The personal character of our present amiable sovereign makes us easy and happy that so great a power is lodged in such hands; but the Favourite has given too just cause for him to escape the general odium. The prerogative of the crown is to exert the constitutional powers entrusted to it in a way, not of blind favour and partiality, but of wisdom and judgment. This is the spirit of our constitution. The people too have their prerogative, and, I hope, the fine words of Dryden will be engraven on our hearts,

'Freedom is the English subject's Prerogative.'"

"The late minister endured, with great equanimity and forbearance, the abuse to which he was subjected, and did not use the lash of power against a man, who had openly avowed his resolution, 'to try how far it was practicable to carry the licentiousness of writing, under pretext of exercising the liberty of the press.' This individual was John Wilkes, member of parliament for Aylesbury, the

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the service of the year to be laid before you. The heavy debts contracted in the course of the late war, for many of which no provision is yet made, call for your utmost attention, and the strictest frugality. I must, however, earnestly recommend to you the support of my fleet, to which our past successes have been so much owing, and upon which the future welfare and importance of Great Britain do most essentially depend. To ease my people of some part of these burdens, I have di-

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avowed author of the North Briton, a periodical paper, in which every public measure was arraigned and ridiculed with coarse invective and scurrilous ribaldry. This licence was carried to such an extent in the observations on the King's Speech at the prorogation of parliament, published in the 45th number of the North Briton, that it was judged expedient to issue a warrant from the secretary of state's office, requiring four messengers in ordinary to make strict search for the authors, printers and publishers of the above seditious and treasonable production, to apprehend and seize them, together with their papers, and bring them before the secretary of state. Under this authority, one Leach, a printer, to whom the messengers had been erroneously directed, was apprehended, but discharged. Kearsley, the avowed publisher, was next taken into custody, and voluntarily acknowledged before lord Halifax, the secretary of state, that one Balfe was the printer, and Mr. Wilkes the author of the paper. Balfe confirmed the same facts; and, the crown-lawyers being of opinion that the publication of a libel was a breach of the peace, and therefore not a case of privilege, the messengers were directed, by virtue of the same warrant, to bring Mr. Wilkes before the secretary of state. The officers were instructed to execute their warrant the same night; but Mr. Wilkes objecting to the general terms in which it was worded, and threatening the messengers with his vengeance, if they offered violence to his person at that unseasonable time, they desisted till the next morning; when he was arrested, and, having in vain demanded a copy of the writ, carried before lord Halifax.

"When Mr. Wilkes was first apprehended, he received a visit from lord Temple, who by his request, applied to the court of Common Pleas for a writ of Habeas Corpus. The motion was granted; but before the writ could be prepared, Mr. Wilkes, having refused to answer questions, was committed to the Tower, detained in close custody, and admittance refused to his friends, and even his counsel and solicitor.

"These were the circumstances which brought under public discussion, one of the most important points, relative to the liberty of the subject, agitated since the Revolution; namely, the legality of General Warrants. The importance of the object communicated itself to the parties concerned in the transaction, and made some parts of their conduct, which would otherwise have escaped observation, worthy of particular attention. The ministry could not justly incur blame for exerting the power with which they were invested, in punishing a libel so audacious as the 45th number of the North Briton: it became a very distinct matter from personal forbearance, to tolerate the circulation of a writing, in which the King was accused of having uttered a lie from the throne. Of such a crime it is no extenuation to distinguish (as Mr. Wilkes afterwards did, and in fact did in the very publication) between the king and his minister: the treasonable suggestion is not mitigated by supposing the king the mere engine through which the minister deludes the people. It is a point of propriety and delicacy, in the course of parliamentary debate, when an address to the throne is under discussion, to shew respect to the king, by considering his Speech as the production of the minister, in order to take away all appearance of offence from the free manner in which it is canvassed; but when in order to stigmatize the minister, the sovereign is involved as an accomplice in a charge so meanly criminal as that of uttering a direct falsehood, such a discrimination is rather in the nature of guilty subterfuge, than of respectful distinction.

"With respect to the warrant; common sense, the constitution, and the subsequent decision of the courts, concur in pronouncing it illegal; but the ministry who used it were not liable to censure. It lay before them as a customary process, which had been resorted to, even recently, by the most popular ministers: nor was their attention directed to the warrant itself, but to its effect: the opinion of crown-lawyers was not taken on the extended question, whether a general warrant was legal; but whether Wilkes's offence was such as justified the use of it, and whether his privilege protected him against its operation.

"The first Habeas Corpus was directed to the messengers, but, not being issued till Mr. Wilkes was out of their custody, was rendered ineffectual, and a new one ordered, directed to the constable of the Tower. In obedience to this writ, Mr. Wilkes was brought before the Court: he made a flippant speech, in which he exposed his grievances, and accused the ministry of having recourse to this mode of persecution, because they had failed in their attempt to corrupt him. The Court took time to consider of the arguments adduced, and at length the chief justice delivered their joint opinion, that the warrant was not illegal, but that Wilkes was entitled to a discharge, by virtue of his privilege; a benefit which he owed intirely to the gratuitous admission of the counsel for the crown, that he was a member of parliament. A prosecution was immediately insti-

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rected, as I promised at the end of the last session of parliament, that the money arising from the sale of the prizes vested in the crown should be applied to the public service. It is my intention, to reserve for the same use whatever sums shall be produced by the sale of any of the lands belonging to me in the islands of the West Indies, which were ceded to us by the late treaty.

"The improvement of the public revenue, by such regulations as shall be

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tuted against him by the attorney general for publishing the North Briton.

"Lord Temple in these proceedings stood forward the avowed supporter and patron of Mr. Wilkes, and more than shared the popularity resulting from the contest. The King having deprived Mr. Wilkes of his commission as colonel in the Buckinghamshire militia; it was the office of lord Temple, as lord lieutenant, to announce that resolution: which he did in the most gentle terms, accompanied with assurances of regret, and complimentary testimonials. This behaviour on the part of lord Temple was so offensive, that he was struck off the list of privy counsellors, and dismissed from the lord lieutenancy of Buckinghamshire, which was given to sir Francis Dashwood, who had recently attained the title of lord le Despenser.

"But although, from an opinion that Mr. Wilkes was improperly treated, lord Temple supported him with a warmth resulting from conviction, and with vigour sufficient to protect him from suffering under any wanton effort of malevolence, or even under a misconstruction of the law, he did not approve the violence and malignity which characterised his paper, or the national reflections with which it abounded. He advised Mr. Wilkes to remain in a state of dignified resignation, and await the decision of parliament, and the award of the courts of law. This line of conduct would have suited lord Temple in similar circumstances; but the only aim of Mr. Wilkes was to court persecution, for the sake of acquiring popularity. He no sooner obtained his discharge, than he wrote a scurrilous letter to the secretaries of state, asserting that his house had been robbed, and the stolen goods were in their possession. To render this insult the more insupportable, he printed the letter, and distributed several thousand copies. The secretaries of state, instead of treating this desperate effort with merited contempt, returned an answer which gave Mr. Wilkes an opportunity of appealing to their sense of propriety, for an observance of those laws of decorum which he had so utterly neglected. The statement of proceedings against Mr. Wilkes, and the reflections on them, form the subject of some hundreds of pamphlets, and occupy a considerable portion of all the periodical works of the day, from which this narrative has been extracted." Adolphus.

"In consequence of the ill success of the recent attempt at reconciliation, the rage of party seemed more inflamed than ever, and the press teemed with political pamphlets on each side, couched in terms of the extremest virulence and abuse. These the ministry seemed totally and wisely to disregard, till on the appearance of the 45th number of a periodical publication styled "The North Briton," containing a personal and very indecent attack upon the King, charging him with affirming a direct falsehood in his speech from the throne, it was in an evil hour judged expedient, for the vindication of his Majesty's honour, to exert every effort of government to rescue the sovereign from an imputation, the impression made by which, had it been regarded with the dignity of silent contempt, would probably have lasted only till the 46th number had promulgated some new abuse, as impudent, as malignant, and as futile as the former. The well known and almost avowed author of the publication in question was Mr. Wilkes, member of parliament for the borough of Aylesbury, a man of ruined fortune and profligate morals, who had made repeated applications to the ministry for some post that might repair his shattered circumstances; but failing of success, probably through his total want of character, he resolved in revenge, and it is said, that he scrupled not openly to declare his resolution, to try how far it was practicable to carry the licentiousness of writing under the pretext of exercising the liberty of the press. A warrant was issued under the hand and seal of lord Halifax, directed to certain of his Majesty's messengers in the usual official form, commanding them to apprehend the authors, printers, and publishers, of that seditious and treasonable paper.

"On the 29th of April, 1763, late at night, the messengers entered the house of Mr. Wilkes, and produced their warrant, with which, on account of the general terms in which it was drawn, he absolutely refused compliance; but on their return the next morning, he was compelled to accompany them to the office of the secretary of state, whence he was committed close prisoner to the Tower, his papers being previously seized and sealed, and all access to his person strictly prohibited. Application being made to the court of Common Pleas for an Habeas Corpus, a writ was accordingly issued, directed to the constable of the Tower, in consequence of which, Mr. Wilkes was brought up the next day to Westminster-hall; and the case being new and important, he was, after the pleadings were finished, remanded till Friday, May 6, that the judges might have leisure to form their opinion. On that day being again brought before them, lord chief justice Pratt, afterwards created lord Camden, a firm and invariable friend to constitutional liberty, proceeded to give the opinion of the Court. He declared, as to the leading points

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judged most expedient for that purpose, deserves your serious consideration: this will be the surest means of reducing the national debt, and of relieving my subjects from those burdens which the expences of the late war have brought upon them; and will, at the same time, establish the public credit upon the most solid foundation.

"My Lords and Gentlemen,

"As the interests and prosperity of my people are the sole objects of my care; I have only to desire, that you will pursue such measures as are conducive to those ends with dispatch and unanimity. Domestic union will be essentially necessary, to remedy those evils which are the consequence of war; to enable us to reap the most permanent advantages from the conclusion of the peace; and to discourage that licentious spirit, which is repugnant to the true principles of liberty, and of this happy constitution. In this opinion I trust that my subjects will be confirmed by your example; and that they will be taught, by your proceedings, to unite their utmost endeavours to support such measures as may equally tend to the honour and dignity of my crown, and to their own security and happiness."

The Lords' Address of Thanks.] Lord Harwich moved the following Address of Thanks to his Majesty, which was agreed to:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our unfeigned thanks, for your most gracious Speech from the throne.

"Permit us, Sir, to take the earliest opportunity of congratulating your Majesty on the happy addition to your royal family, by the auspicious birth of a second prince; and of expressing our most sincere wishes, that the same divine blessing may be continued to your Majesty's illustrious House, on which the preservation of our holy religion, and our rights and liberties, do, under God, so essentially depend.

"We beg leave also to declare our utmost gratitude to your Majesty for the re-establishment of the public tranquillity, upon terms of honour to your crown, and advantage to your people. We have the firmest reliance on your Majesty's most gracious assurances of your endeavours to secure the continuance of a peace, so necessary to the relief of your subjects, who have long laboured under the burthen of a most expensive, though successful, war in every part of the globe: and we receive with great satisfaction the communication, which your Majesty has been pleased to make to us, of the good disposition of the several powers engaged in the late war, whose concurrence in your Majesty's salutary intentions will, we trust, long ensure the tranquillity of Europe.

involved in this complex question, the commitment of Mr. Wilkes to be not in itself illegal, being justified by numerous precedents; and though in strict contemplation of law the warrant of the secretary of state was not of superior force to that of a justice of peace, where a combination of circumstances gave a strong suspicion of facts incompatible with the public safety, he was supported in the commitment even without receiving any particular information for the foundation of the charge. As to the second objection, the Court was of opinion, that there was no necessity for the specification of those particular passages in the 45th number of "The North Briton," which had been deemed a libel. The paper did not at that time come under the cognizance of the Court, nor could it without the assistance of a jury. As to the third head, the Chief Justice admitted, that the privilege of parliament was violated in the person of Mr. Wilkes;—for the privilege of parliament could be forfeited only by treason, felony, or breach of the peace; but Mr. Wilkes stood accused only of writing a libel, which did not come within that description. At most, it had but a tendency to disturb the peace, and this was not sufficient to destroy the privilege of a member of parliament." Belsham.

"The proceedings relative to Mr. Wilkes during the year 1763, occupied the principal attention of the whole nation. The popular party represented him as the champion of liberty, and the object of persecution on account of his patriotism. Anti-ministerial writers directed their efforts almost exclusively to the praises of Wilkes, and the abuse of his prosecutors. Every publication of which he was the subject, was read with astonishing avidity. Not the populace merely, but men of real talents and virtue, though they detested his profligacy, considering the freedom of Englishmen as violated in his person, associated the idea of "Wilkes and Liberty." Wilkes was not slow in availing himself of the popular opinion in his favour. He set up a printing press, and published the proceedings against him at one guinea a copy; by the extraordinary sale of which, he procured a degree of affluence to which he had been long unaccustomed, and a degree of importance which he could never otherwise have established. Finally, he expressed his resolution of making the proceedings against him a subject of formal complaint in parliament." Bisset.

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"We are deeply sensible of your Majesty's paternal care and attention for the improvement of your conquests, and the extension of the commerce of your subjects, in which the public welfare is so materially concerned; and we will not fail, on our part, to exert our warmest endeavours in forwarding your Majesty's great and gracious purposes: for we have nothing more sincerely at heart, than that, your Majesty having by your conduct impressed on the minds of your faithful subjects a full conviction of your true affection, may receive from them the most ample returns of duty and attachment which a loyal and grateful people can make.

"Convinced, as we are, that domestic union is essentially necessary for securing the advantages derived to us from the late happy and honourable peace; we cannot sufficiently express our abhorrence of that seditious spirit which has of late manifested itself, in defiance of the laws, to the subversion of good order, and to the disgrace of liberty, whose sacred name it has so insolently assumed. And we beg leave to assure your Majesty, that, by our zeal and application in bringing all offenders of that sort to justice, as well as by our proceedings in general, we will endeavour to give such an example as may induce your Majesty's subjects to unite in discouraging a licentiousness which is so repugnant to the true principles of this happy constitution, and in promoting such measures as may equally conduce to the honour and dignity of your Majesty's crown, and to their own happiness and security."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"These hearty assurances of your loyalty and affection are truly acceptable to me; and I receive with particular satisfaction your congratulations upon the birth of my second son.

"Your concurrence with me in pursuing the essential objects of our national attention, under the present happy pacification, will be of great importance towards the success of my endeavours for securing the prosperity of my people.

"I do both highly approve the zeal which you profess, and firmly rely upon the exertion of it against that licentious and factious spirit which is the most dangerous enemy to our excellent and invaluable constitution."

The Commons' Address of Thanks.] The following Address, moved by the marquis of Caernarvon and seconded by lord Frederick Campbell, was agreed to *nem. con.*

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your Majesty the most humble and hearty thanks of this House, for your most gracious Speech from the throne.

"Permit us, at the same time, to offer our warmest congratulations to your Majesty on the auspicious birth of another prince, and on the happy recovery of your royal consort, now further endeared to this country by the increase of those pledges of our liberty and future happiness.

"We beg leave to congratulate your Majesty on the completion of that great and salutary measure, the re-establishment of the public tranquillity, upon terms so honourable to your crown, and so advantageous to your people.

"Allow us, Sir, to assure your Majesty, that we feel the highest satisfaction in the declaration which you are graciously pleased to make of your resolution, faithfully and steadily to adhere to the conditions of the peace which your Majesty has concluded; and that we cannot but consider the strong assurances of the same good disposition given by the several powers of Europe who were lately engaged against us, as the natural consequence of your Majesty's wisdom and firmness, and as a further presage that the blessings of peace will be uninterrupted and permanent.

"We are truly sensible of that paternal love to your people, of which your Majesty is pleased to assure us in so affecting a manner; and we will assiduously apply ourselves to the accomplishment of those great purposes, for which your Majesty has called us together, the improvement of our valuable acquisitions, the extension of our commerce, and the cultivating of every art of peace, which may either tend to alleviate the heavy burthens occasioned by the war, or may otherwise contribute to the general welfare of these kingdoms.

"We beg leave to assure your Majesty, that your faithful Commons will cheerfully grant to your Majesty such supplies as shall be found necessary for the service of the year: that they will be careful to maintain the navy of Great Britain upon

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the most respectable footing; and that they look upon your Majesty's earnest recommendation of this important object, as a testimony of your royal attention to the true and essential interests of this country.

"We acknowledge, with the deepest sense of gratitude, your Majesty's gracious and tender concern for the relief of your people, by directing that the money arising from the sale of prizes vested in the crown should be applied to the public service; and for that additional mark of your royal beneficence, in signifying your intention to reserve for the same use, whatever sums shall be produced by the sale of any of the lands belonging to the crown in the islands of the West Indies, ceded by the late treaty.

"Your Majesty may be assured that we will bestow the strictest attention upon that interesting subject, which your Majesty has pointed out to our serious consideration: and will diligently weigh every regulation which may be proposed for the improvement of the public revenue, as the most effectual method to reduce the national debt, to relieve your Majesty's subjects from the burthens of the late war, and to confirm and strengthen the public credit.

"We are thoroughly convinced, by the whole tenor of your Majesty's most auspicious reign, that the common good and prosperity of your people are the sole objects of your care; and that we should therefore be wanting to ourselves, and neglectful of our own happiness, if we did not pursue, with unanimity and dispatch, such measures as may best contribute to these great ends, and may most effectually discourage that spirit of disorder and licentiousness, which is no less dangerous to liberty than destructive of government.

"Animated with these sentiments, we will endeavour, by our own conduct, to set an example to others of duty to our sovereign, and of love to our country; being firmly persuaded, that, under a prince adorned with those virtues which distinguish your Majesty, your real interests and those of your people are inseparable."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I return you my hearty thanks for this very dutiful and affectionate Address, and for your congratulations on the happy event of the birth of my second son.

"The satisfaction which you express at the re-establishment of the public tranquillity, is highly acceptable to me; and your resolution to pursue such measures, as are most conducive to the honour and happiness of my kingdoms, will always meet with my warmest approbation and concurrence."

*Proceedings in the Lords against Mr. Wilkes for publishing the Essay on Woman.**] On the first day of the Ses-

* Extract of a Letter from Dr. Birch to Lord Royston.

"The session of parliament commenced on the 15th instant in the House of Lords with a complaint made by Lord Sandwich against Mr. Wilkes for a breach of privilege in being the author of a poem full of obscenity and blasphemy, intituled 'An Essay on Woman,' with Notes bearing the name of Dr. Warburton.

"His letters, which discovered the piece was his, had been seized at Kearsley's the bookseller, when the latter was taken up for publishing No. 45 of the North Briton.

"Lord Temple and lord Sandys objected to the reading letters, till the Secretary of State's warrant by which Kearsley had been arrested, had been produced and shewn to be a legal act. But this objection being overruled, the Lords voted the Essay a most scandalous, obscene, and impious libel, and adjourned the further consideration of the subject as far as concerned the author till the Thursday following."

"In the House of Lords complaint was made of the Essay on Woman, which was produced; that is, as much as the evidence, Curry, had stolen. Its obscenity and profanity were particularly execrated by the earl of Sandwich, and the bishop of Gloucester complained of a breach of privilege, his name being inserted in one of the notes. When Mr. Wilkes heard of the motion against him in the House of Lords, he was thunderstruck; he had not the least suspicion that the Essay on Woman, in which he thought he had been so cautious, was to furnish a new accusation against him." History of the Minority, p. 233.

"It has afforded some ground of surprize, and furnished topics of ridicule and censure, that the earl of Sandwich should stand forward as Mr. Wilkes's principal accuser on this occasion, because lord Sandwich's conduct was not considered sufficiently moral to render him a fit champion in such a cause." Adolphus.

"The man who first declared his abhorrence of this offence against decency and piety, was the earl of Sandwich. His lordship had recently been extremely intimate with Mr. Wilkes, and had at the very time thoroughly established a character, of which holiness and

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sion, before their lordships took into consideration the Speech from the throne, the Earl of Sandwich rose, and made a complaint to this House, of a printed Paper, intituled, "An Essay on Woman," with Notes, to which the name of the right reverend Dr. Warburton lord bishop of Gloucester, a member of this House, is affixed, in breach of the privilege of this House; and of another printed Paper, intituled, "The Veni Creator paraphrased."

And some passages in the said printed papers being read; It is resolved, "That a printed Paper, intituled, 'An Essay on Woman,' with the Notes; and another printed Paper intituled, 'The Veni Creator paraphrased,' highly reflecting upon a member of this House, is a manifest breach of the privilege thereof; and is a most scandalous, obscene, and impious libel; a gross profanation of many parts of the Holy Scriptures; and a most wicked and blasphemous attempt to ridicule and vilify the person of our blessed Saviour."

Ordered, That Lovel Stanhope, esq., James Watson, William Johnston, Thomas Davis, Jonathan Scott, Thomas Cadell, Andrew Millar, Michael Curry, and Samuel Jennings, do attend this House forthwith, in order to be examined as witnesses, in relation to the matter of the said complaint.

The witnesses attending, as ordered, Lovel Stanhope, esq., and James Watson were called in, and sworn.

And Mr. *Stanhope* was asked,

Q. Have you brought any papers? —*A.* Yes.

What papers have you in your hand?—They are three letters, which were taken from Mr. Kearsley, a printer in Ludgate street, by Mr. Watson a messenger, by virtue of a warrant. They are signed John Wilkes. One is directed, To Mr. Kearsley, in Ludgate street.

Proposed, "That Mr. Watson may be required to produce the warrant by which

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virtue were not constituents; but he was extremely active in procuring evidence to fix this publication upon Mr. Wilkes, in order to bring to condign punishment the violator of morality and religion. His own habits of intercourse, and sources of information, peculiarly fitting his lordship for bringing such flagitiousness to light, he procured a copy of the work, and complained of it in the House of Peers, as a flagrant outrage against the most sacred duties both to God and man. The Peers, on the slightest inspection, saw that it was an infamous performance; and, in the attack upon the venerable, excellent, and illustrious prelate, an evident breach of the privileges of the Lords; they therefore addressed his Majesty to give directions for prosecuting the author. He was accordingly indicted for blasphemy, while the proceedings respecting the libel were pending; and, on the 21st of February, tried before lord Mansfield, for re-publishing the North Briton, with notes; and on the same day, for printing and publishing the Essay on Woman. Not returning to receive sentence, he was outlawed; the suits carried on against the two secretaries of course abated; and Wilkes himself might have been forgotten, if another ministry had not rekindled the popular flame." Bisset.

"In the House of Peers, a complaint or accusation of a nature most improper for the cognizance of the House, and inconsistent with the dignity and decorum of its proceedings, was brought forward by the earl of Sandwich, who alleged, "that Mr. Wilkes had violated the most sacred ties of religion, as well as decency, by printing in his own house a book or pamphlet, entitled, 'An Essay on Woman,' with notes or remarks, to which the name of a right reverend prelate, Warburton bishop of Gloucester, had been scurrilously affixed." This book was originally printed with the utmost secrecy, and very sinister and scandalous artifices were adopted to procure a copy of the work, in order thus to convert it to the prejudice of the author. That the privileges of the House were violated by the use made of the name of the learned prelate was incontrovertible; and on the slightest inspection the book appeared to be detestably obscene and impious. The House therefore voted, without hesitation, an Address to his Majesty, to order a prosecution to be instituted against the author Mr. Wilkes. But this only served to increase the resentment of the public, who now regarded Mr. Wilkes as a victim devoted to ruin by the vengeance of the government, and whom it was therefore incumbent upon them to countenance and protect. As if to demonstrate that the real object of government bore no analogy to the ostensible pretext, the charge respecting this infamous publication, just as it was admitted to be in itself, was made by a nobleman, so far from being able to boast of the immaculate purity of his own morals, that the prelate personally concerned in this business has been described as co-adjutor to a lay-lord, 'homini post homines natos turpissimo, sceleratissimo, contaminatissimo.'" Belsham.

Lord Chesterfield, in a letter to his son, says, "It is a mercy that Mr. Wilkes, the intrepid defender of our rights and liberties, is out of danger; and it is no less a mercy, that God hath raised up the earl of Sandwich, to vindicate and promote true religion and morality. These two blessings will justly make an epocha in the annals of this country."

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he seized the said papers." Which being objected to: the witnesses were directed to withdraw. After a short debate: the witnesses were called in again.

And the said letters were shewn to Mr. Watson the messenger; and he was asked,

Q. Do you know these papers?—*A.* I do: I took them at Mr. Kearsley's, a publisher in Ludgate street; and I marked them with my own name.

Then *Jonathan Scott* was asked,

Q. Did you ever see Mr. Wilkes write?—*A.* A great many times.

The said Letters are shewn to him; and he is bid to look upon them, and then he was asked,

Whose hand-writing are those letters?—They are Mr. Wilkes's hand-writing: I know his hand-writing very well; it is as particular as his person.

Who is that gentleman?—John Wilkes, esq. member of parliament for Aylesbury.

Then *William Johnston* was called in; and, having been sworn, the three Letters were shewn to him, and he was asked,

Q. Do you know whose hand-writing those letters are?—*A.* They are Mr. Wilkes's hand-writing.

Have you often seen Mr. Wilkes write?—Not more than the franking of letters; but I know his hand-writing very well, and believe they are of his hand-writing.

And the said three Letters were brought up to the table and read.

Then *Michael Curry* was asked,

Q. What is your profession?—*A.* A printer.

Was you ever employed to print any thing at Mr. Wilkes's house in Great George street, Westminster?—I was employed by Mr. Wilkes, as his compositor, in May last.

Do you mean as a principal man at the press?—Yes, I do.

What were you paid for your work?—I had 25*s.* a week, and bed and board.

Who paid you?—Mr. Wilkes; and he generally gave me money to pay the rest of the workmen.

What works did you print for Mr. Wilkes there?—The first thing I printed there was part of an affidavit of Messrs. Touchet, Amyand, and Cust, which they had filed against Mr. Kearsley.

Did you print a work, intituled, "An Essay on Woman"?—I did.

Who delivered that work to you?—Mr. Wilkes.

Did Mr. Wilkes say any thing to you about what number of years he was in composing that work?—He informed me, that it took him a great deal of pains and time to compose it.

Who corrected the press?—I corrected the first proof, and Mr. Wilkes corrected the latter proof; and from his corrections I put it to the press.

The printed papers complained of are shewn to him:

And he says, The three half sheets in red are my revises; and the other paper in black is a proof with Mr. Wilkes's corrections.

Did you print the black proof?—Yes, I did.

How many copies of "The Essay on Woman" were printed?—Thirteen, to the best of my knowledge.

What was the reason no more were printed?—Mr. Wilkes did not chuse to have a greater number done.

Were they not stopt, in order to print some other work?—The reason why there were no more of the half-sheets printed was, in order to expedite the publication of "The North Briton," in octavo.

Are the four words which are wrote in the margin of the last page of the black proof of Mr. Wilkes's hand-writing?—I did not see him write them; but I know Mr. Wilkes's hand-writing so well, that I can be positive as to their being his hand-writing.

Who delivered the frontispiece of "The Essay on Woman" to you, in which the name of Dr. Warburton is printed at length?—Mr. Wilkes himself.

In whose hand-writing was the copy?—In Mr. Wilkes's hand writing.

Do you know of any work which Mr. Wilkes thought of publishing, to which he affixed the names of Stanhope and Webb?—I cannot say that he intended to publish it for sale, but to give away: it was No 46, folio, North Briton; a single sheet.

Did you know who Dr. Warburton was?—He never explained it to me; it was delivered to me interleaved in an edition of "The Essay on Man;" and was intended to be pasted page for page in "The Essay on Man;" and I pasted it myself into one.

Then *Samuel Jennings* was asked,

Did you work at a printing press, in Mr. Wilkes's house in Great George street Westminster, in May last?—In June, I did.

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The black proof was shewn to him; and he was asked,

What do you know of that proof?—I found it on the floor in Mr. Wilkes's house.

Do you know of whose hand-writing the four words wrote in the margin of the last page of that proof are?—I know Mr. Wilkes's hand-writing; and I believe them to be of his hand-writing.

Ordered, that the further consideration of the matter of this complaint be adjourned till the 17th; and the Lords to be summoned.

November 17. The order of the day for taking into further consideration the matter of the said complaint being read, it was moved, "That the Resolution of this House on Tuesday last, in relation to the said scandalous and impious Libel, might be read." And the same was read by the clerk accordingly.

Ordered, That an humble Address be presented to his Majesty, to lay before him the said Resolution of this House, of the 15th of November, relative to a certain infamous and blasphemous Libel; and humbly to desire his Majesty, that he will be graciously pleased to give the most effectual orders for the immediate prosecution of the author, or authors, of the said scandalous and impious Libel, and for bringing them to condign punishment.

Nov. 23. The Lord Chamberlain reported, "That the Lords with white staves had presented to his Majesty their lordships' Address; humbly to desire his Majesty, that he will be pleased to give the most effectual orders for the prosecution of the author or authors of a scandalous and impious Libel, complained of to their lordships, intituled, "An Essay on Woman, &c.;" and that his Majesty was pleased to say, he will give immediate directions accordingly."

Ordered, That the clerk do deliver the said printed Papers complained of, together with the three letters signed John Wilkes, to Philip Carteret Webb, esq. in order to the carrying on of the said prosecution, upon his giving a receipt for the same.

December 14. The House being informed, "That Dr. Richard Brocklesby, physician, and Mr. William Graves, surgeon, attended, as ordered:" they were called in, and sworn at the bar.

And Dr. Brocklesby was examined, as to the state of Mr. Wilkes's health; and informed the House, "That he attends Mr. Wilkes as his physician; and that he apprehends Mr. Wilkes is not free of danger from his wounds; that last Saturday he underwent an operation of having his wounds opened, and that much matter has been discharged from them; that he has now a fever upon him; and that he thinks, in his conscience, that it would be very unsafe and dangerous for him to come out."

Mr. Graves being also examined to the same matter, informed the House, "That he attends Mr. Wilkes as his surgeon; that he has had two wounds upon him; and that there has been a necessity of cutting him, and laying the wounds open, which has made one wound of about seven inches long, which is attended with a great discharge of matter; that he has now a fever upon him; and that his coming out now would certainly be attended with great danger."

Ordered, That this House will take into further consideration the matter of the said complaint on the 24th of January next; and that the several witnesses, who were ordered to attend to-morrow do then attend; and the Lords to be summoned.

January 24, 1764. Their lordships took into consideration, the matter of the said Complaint, and, after debate,

Resolved, "That it appearing to this House, that John Wilkes, esq. of Great George street Westminster, is the author and publisher of 'The Essay on Woman,' with Notes; and of another paper, intituled, 'The Veni Creator paraphrased:' he be, for the said offence, taken into the custody of the Gentleman Usher of the Black Rod." Which was ordered accordingly.

Ordered, That all the Lords this day present be appointed a committee, to search precedents, as to what punishments have been inflicted, or methods taken to vindicate the honour of this House, in cases of any breach of their lordships' privilege, or contempts of this House: and to report to the House.

The Lords' Report of Precedents of Punishments for Breaches of Privilege and Contempts of their House.] March 8. The Earl of Marchmont reported from the Lords committees appointed to search

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Precedents, as to what Punishments have been inflicted, or methods taken to vindicate the honour of this House, in cases of any Breach of their Lordships Privilege, or Contempts to the House:

"That the Committee have taken into consideration the matter to them referred, and have inspected the Journals in relation thereto; and find that a long Report was made from a Committee, to this House, the 25th of November 1724, of Precedents of Punishments inflicted, or methods taken to vindicate the honour of the House, in cases of Breaches of Privilege or Contempts; which Report being entered in the Journal, the Committee think it unnecessary to do more than to refer thereto. But they think it their duty to offer to the consideration of the House the following instances, which have occurred since the making of the said Report:

"4th Feb. 1724. Mathias Cater, for procuring and selling protections of the earl of Suffolk, and for an unlawful combination to charge certain persons falsely, was fined 20 nobles, ordered to be committed to Newgate for three months, and until he pay the said fine; and to be put twice in the pillory for the space of an hour each time, with a paper over his head, signifying his offences.

"21st April 1725. Thomas Tooke, an attorney, for a breach of the earl of Strafford's privilege, was ordered into the custody of the Gentleman Usher of the Black Rod.

"22d Feb. 1725. Upon a representation of the Black Rod against Tooke and others, formerly ordered into custody for breaches of privilege, they were all ordered again into custody.

"21st Jan. 1726, 4th July 1727. The said Tooke, not having made his submission, nor paid his fees, was again ordered into custody.

"23d May 1728. The Yeoman Usher and one of the door-keepers being examined concerning the behaviour of the said Tooke when formerly in custody, the House adjudged that the said Tooke should pay a fine of 500*l.* to the king, for breach of privilege and contempt of the House: and the sheriffs of London and Middlesex were ordered to take him, and keep him in Newgate till he should pay the said fine, and the fees and charges to the Usher of the Black Rod, and other officers of this House.

"19th Feb. 1754. David Home, for forging and selling protections in the name of the earl of Breadalbane and earl of Crawfurd, was ordered to be committed to Newgate for one year, and to be put twice in the pillory for the space of an hour each time, with a paper over his head signifying his offence.

"16th Dec. 1756. George King, for being concerned in printing and publishing a spurious and forged printed paper, dispersed and publicly sold as his majesty's Speech to both Houses of Parliament, was fined 50*l.* and committed to Newgate for six months, and until he pay the said fine:

"1st April 1757. Upon his Petition, expressing his abhorrence of his crime, and sorrow for the same, and humbly imploring forgiveness and mercy, he was ordered to be brought to the bar.

"4th April 1757. He was brought to the bar accordingly; where he, on his knees, receiving a reprimand from the Speaker, his fine was remitted; and he was ordered to be discharged out of Newgate, paying his fees."

And the said Report was read by the Clerk.

PROCEEDINGS IN THE COMMONS AGAINST MR. WILKES FOR WRITING THE NORTH BRITON, NUMBER FORTY FIVE.] On the first day of the Session, the Commons being returned from the House of Lords, several Members were sworn at the table, and before the House proceeded to take into consideration the King's Speech, the House was moved, that the Journal of the House of the 21st of March 1689, might be read. And the same was read accordingly.

And the question being proposed, That a Bill for the more effectual preventing Clandestine Outlawries, be read the first time;* an Amendment was proposed to

* "The question, Whether it is of necessity, that, at the meeting of the House after a prorogation, a Bill should be read for the Opening of the Session, before the report of the King's Speech, or before the House proceed on any other business, was very much agitated on the 15th of November, 1763; when, as soon as the members were sworn at the table, Mr. Wilkes and Mr. Grenville, then chancellor of the exchequer, arose in their places, the first, to make a complaint of a breach of privilege in having been imprisoned, &c. and Mr. Grenville, to communicate to the House a Message from the King, which related to the privileges of the House; the Speaker at the same time acquainted the House, that the clerk had prepared a Bill, and submitted it to them, whether,

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be made to the question, by inserting after the word " Bill" these words, " prepared by the Clerk for opening the Session, entituled a Bill." And the said Amendment was, upon the question put thereupon, agreed to by the House.

Then another Amendment being proposed to be made to the question so amended, by adding at the end thereof, these words, " before the Complaint of a Breach of the Privilege of this House, which John Wilkes, esq. has in his place offered to make, be heard;" an Amendment was proposed to be made to the said proposed Amendment, by inserting at the beginning thereof, these words " before the House will receive the Message relating to the Privileges of this House, which Mr. Chancellor of the Exchequer has signified that he has in command from his Majesty to deliver to the House, and" And the said Amendment was, upon the question put thereupon, agreed to by the House.

Then the question being put, That the said Amendment so amended be added to the question first proposed and amended; The House divided: Yeas 111; Noes 300. So it passed in the negative.

Then the main question, as amended, being put, That a Bill, prepared by the Clerk for opening the session, intituled, A Bill for the more effectual preventing Clandestine Outlawries, be read the first time; it was resolved in the affirmative. And the said Bill was accordingly read the first time.

The Chancellor of the Exchequer (Mr. *George Grenville*) then informed the House, that he was commanded by the King to acquaint the House, that his Majesty having received information that John Wilkes esq.* a member of this House, was the author of a most seditious and dangerous libel, published since the last session of parliament; he had caused the said John Wilkes esq. to be apprehended, and secured, in order to his being tried for the same by due course of law: and Mr. Wilkes having been discharged out of custody by the court of Common Pleas, upon account of his privilege as a member of this House; and having, when called upon by the legal process of the court of King's-bench, stood out, and declined to appear, and answer to an information which has since been exhibited against him by his Majesty's attorney general for the same offence: in this situation, his Majesty being desirous to shew all possible attention to the privileges of the House of Commons, in every instance wherein they can be supposed to be concerned; and at the same time thinking it of the utmost importance not to suffer the public justice of the kingdom to be eluded, has chosen to direct the said libel, and also copies of the examinations upon which Mr. Wilkes

in point of form, the reading of the Bill should not be the first proceeding towards opening the session. A very long debate ensued, which of these three matters ought to have the precedence, and at last it was carried in favour of the Bill.

" Notwithstanding this decision, and the arguments (some very extraordinary ones) that were used on that day, the custom of reading a Bill immediately on the return from the House of Lords, is probably nothing more than a claim of right on the part of the Commons, that they are at liberty to proceed, in the first place, upon any matter which they think material, without being limited to give a preference to the subjects contained in the King's Speech. If this is so, the House might certainly have proceeded, and very regularly, either upon the King's Message, or Mr. Wilkes's complaint, before they read the Bill. And whoever will examine the Journals accurately, will find several instances, where other business has been done before the Bill is read. The reading of the Bill is " for form sake," and may be suspended till after other matters, if the House shall think the consideration of those matters of greater importance." Hatsell's Precedents, vol. 2, p. 77.

* Extract of a LETTER from Dr. Birch to lord Royston.

" On the 15th, in the House of Commons, a Message from the King was delivered by the Chancellor of the Exchequer, purporting, that since the recess of parliament, he had taken up one of their members for the re-publication of a libel, intitled the North Briton, No. 45, who pleading privilege, his Majesty left the consideration of that plea to the House. Mr. Wilkes then made his complaint of the same breach of privilege, which was referred to the Committee of Privileges. After this lord North moved, that the North Briton, No. 45, should be voted false, scandalous, and seditious, and tending to excite the people to traitorous insurrections.

" Mr. Pitt declared strongly against the Paper, but objected to the words, " tending to traitorous," but which after a long debate, in which he had the most considerable share, and a division of 273 against 111, were carried, at one o'clock in the morning, to stand part of the question, and the North Briton was ordered to be burnt by the hand of the common hangman.

" During the course of this debate, Mr. Sa-

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was apprehended and secured, to be laid before this House for their consideration: and the Chancellor of the Exchequer delivered the said papers in at the table.

Resolved, *nem. con.* "That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his most gracious Message, and for the tender regard therein expressed for the privileges of this House; and to assure his Majesty that this House will forthwith take into their most serious con-

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muel Martin, secretary to the treasury under both the duke of Newcastle and lord Bute, who had been reflected upon in very strong terms in one of the North Britons, took the opportunity to say publicly in the House, with respect to the writer of that paper, that, whoever he was, that without a name and in the dark was mean enough to stab another man's reputation, was a coward, and a malignant scoundrel, which words he repeated, that they should be heard. This induced Wilkes to call upon him the next morning to ask him, whether after saying these words he intended to shelter himself behind five hundred men? Mr. Martin avowing them, they went to the ring in Hyde Park, where the two pistols of each being fired, and the second of Mr. Martin discovered two bullets in the belly of Mr. Wilkes, but the wounds do not appear very dangerous."

This accident occasioned the question of privilege to be postponed at the motion of Mr. Grenville from Wednesday to Friday, and Mr. Wilkes' complaint of the breach of it till Monday. But on Wednesday morning (the 16th) the House having sat till that time, Mr. Wilkes came home and wrote the following letter to Mr. Martin, who had insulted him the preceding evening.

"*Great George Street, Wednesday Nov.* 16.

"Sir; you complained yesterday before five hundred gentlemen, that you had been stabbed in the dark by the North Briton, but I have reason to believe you was not so much in the dark as you affected, and chose to be. Was the complaint, made before so many gentlemen, on purpose that they might interpose? To cut off every pretence of ignorance as to the author, I whisper in your ear, that every passage of the North Briton, in which you have been named, or even alluded to, was written by your humble servant,

"JOHN WILKES."

Mr. Martin's ANSWER.

"*Abingdon-street, Nov.* 16, 1763.

"Sir; as I said in the House of Commons yesterday, that the writer of the North Briton, who had stabbed me in the dark, was a cowardly, as well as a malignant and infamous, scoundrel; and your letter of this morning's date acknowledges, that every passage of the North Briton, in which I have been named, or even alluded to, was written by yourself, I must take the liberty to repeat, that you are a malignant and infamous scoundrel, and that I desire to give you an opportunity of shewing me, whether the epithet of cowardly was rightly applied or not.

"I desire that you may meet me in Hyde-Park immediately, with a brace of pistols, each to determine our difference.

"I shall go to the ring in Hyde-Park, with my pistols so concealed that nobody may see them; and I will wait in expectation of you one hour. As I shall call in my way at your house to deliver this letter, I propose to go from thence directly to the ring in Hyde-Park, from whence we may proceed, if it be necessary, to any more private place; and I mention that I shall wait an hour in order to give you full time to meet me. I am, Sir, &c.

"SAM. MARTIN."

The circumstances of the Duel related by Mr. Wilkes are as follow:

"When the gentlemen met in Hyde-Park, they walked together for a little while to avoid some company, which seemed coming up to them. They brought each a pair of pistols. When they were alone, the first fire was from Mr. Martin's pistol. Mr. Martin's pistol missed Mr. Wilkes, and the pistol in Mr. Wilkes's hand flashed in the pan. The gentlemen then each took one of Mr. Wilkes's pair of pistols. Mr. Wilkes missed, and the ball of Mr. Martin's pistol lodged in Wilkes's belly. Mr. Wilkes bled immediately very much. Mr. Martin then came up and desired to give him all the assistance in his power. Mr. Wilkes replied, that Mr. Martin had behaved like a man of honour, that he was killed, and insisted on Mr. Martin's making his immediate escape, and no creature should know from Mr. Wilkes how the affair happened. Upon this they parted, but Mr. Martin came up again in two or three minutes to Mr. Wilkes, offering him a second time his assistance, but Mr. Wilkes again insisted on his going off. Mr. Martin expressed his concern for Mr. Wilkes, said the thing was too well known by several people, who came up almost directly, and then went away. Mr. Wilkes was carried home, but would not tell any circumstance of the case, till he found it so much known. He only said to the surgeon, &c. that it was an affair of honour.

"The day following Mr. Wilkes imagining himself in the greatest danger, returned Mr. Martin his letter, that no evidence might appear against him; and insisted upon it with his relations, that in case of his death no trouble should be given Mr. Martin, for he had behaved as a man of honour.

"Mr. Martin not at the same time returning Mr. Wilkes's letter, occasioned somebody to remark, 'That in all probability it was kept in 'order to be made use of as a proof of Mr. 'Wilkes being concerned in the North Briton.'

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sideration, the very important matter communicated by his Majesty's Message."

The House then proceeded to take into consideration the matter communicated by his Majesty's Message. And the papers delivered by the Chancellor of the Exchequer, by his Majesty's command, entituled, "The North Briton, No. 45." The Examination of George Kearsley, and the Examination of Richard Balfe, were read.

A motion was made, and the question being proposed, That the paper intituled, "The North Briton, No. 45," is a false, scandalous, and seditious libel, containing expressions of the most unexampled insolence and contumely towards his Majesty, the grossest aspersions upon both Houses of Parliament, and the most audacious defiance of the authority of the whole legislature; and most manifestly tending to alienate the affections of the people from his Majesty, to withdraw them from their obedience to the laws of the realm, and to excite them to traitorous insurrections against his Majesty's government;" an Amendment was proposed to be made to the question, by leaving out the words, "and to excite them to traitorous insurrections against his Majesty's government."

And the question being put, that those words stand part of the question; the House divided: Yeas 273: Noes 111. So it was resolved in the affirmative.

Then the main question being put;

Resolved, That the paper intituled, "The North Briton, No. 45," is a false, scandalous, and seditious libel, containing expressions of the most unexampled insolence and contumely towards his Majesty, the grossest aspersions upon both Houses of Parliament, and the most audacious defiance of the authority of the whole legislature; and most manifestly tending to alienate the affections of the people from his Majesty, to withdraw them from their obedience to the laws of the realm, and to excite them to traitorous insurrections against his Majesty's government.

Resolved, That the said paper be burnt by the hands of the common hangman.

And the House having continued to sit till near one of the clock on Wednesday morning; it was ordered, that the further consideration of the matter communicated by his Majesty's Message be adjourned till this day, at twelve of the clock.

Mr. *Wilkes*, who had several times stood up, was now admitted to speak. He complained of a Breach of Privilege in the following terms:

"Mr. Speaker:

"I think it my duty to lay before the House a few facts, which have occurred since our last meeting, because, in my humble opinion, (which I shall always submit to this House) the rights of all the Commons of England, and the Privileges of Parliament, have, in my person, been highly violated. I shall, at present, content myself with barely stating the facts, and leave the mode of proceeding to the wisdom of the House.

"On the 30th of April, in the morning, I was made a prisoner in my own house, by some of the King's messengers. I demanded by what authority they had forced their way into my room, and was shewn a warrant, in which no person was named in particular, but generally the authors, printers, and publishers, of a seditious and treasonable paper, intitled, The North Briton, No. 45. The messengers insisted on my going before lord Halifax, which I absolutely refused, because the warrant was, I thought, illegal, and did not respect me. I applied by my friends, to the Court of Common Pleas for a Habeas Corpus, which was granted; but as the proper office was not then open, it could not immediately issue. I was afterwards carried by violence, before the earls of Egremont and Halifax, whom I informed of the orders given by the Court of Common Pleas for the Habeas Corpus; and I enlarged upon this subject to Mr. Webb, the Solicitor of the Treasury. I was, however, hurried away to the Tower by another warrant, which declared me the author and publisher of a most infamous and seditious libel, intitled, The North Briton, No. 45. The word 'treasonable' was dropt, yet I was detained a

I own, said the remarker, that I can account for this behaviour of Mr. Martin no more than I can for his tamely bearing above eight months the abuse upon him. Has he been all this time (Sundays not excepted) practising at a target? that report is confirmed by all his neighbours in the country. Yet, after all, he did not venture to send to Mr. Wilkes, but before five hundred gentlemen, ready to interpose, seemed to intend to begin a quarrel, I suppose, that it might end there. Mr. Wilkes chose coolly to take it up the next morning, by a private letter to Mr. Martin, who insisted on pistols, without naming the sword, though the choice of weapons was, (by the laws of honour,) in Mr. Wilkes."

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close prisoner, and no person was suffered to come near me for almost three days, although my counsel, and several of my friends, demanded admittance, in order to concert the means of recovering my liberty. My house was plundered, my bureaus broke open, by order of two of your members, Mr. Wood and Mr. Webb, and all my papers carried away. After six days imprisonment I was discharged, by the unanimous judgment of the Court of Common Pleas, 'That the privilege of this House extended to my case.' Notwithstanding this solemn decision of one of the King's superior courts of justice, a few days after I was served with a subpœna upon an information exhibited against me in the King's-bench. I lost no time in consulting the best books, as well as the greatest living authorities; and from the truest judgment I could form, I thought that the serving me with a subpœna was another violation of the privilege of parliament, which I will neither desert nor betray, and therefore I have not yet entered an appearance.

"I now stand in the judgment of the House, submitting, with the utmost deference, the whole case to their justice and wisdom, and beg leave to add, that if after this important business has in its full extent been maturely weighed, you shall be of opinion that I am entitled to privilege, I shall then be not only ready, but eagerly desirous, to wave that privilege, and to put myself upon a jury of my countrymen."

The hearing of this Complaint, and the farther consideration of the King's Message, were adjourned to the 23d of November.

November 23. A motion was made, and the question being put, that the House do now resume the adjourned consideration of the matter communicated by his Majesty's Message of the 15th instant. The House divided: Yeas 243; Noes 166; so it was resolved in the affirmative. The House accordingly resumed the adjourned consideration of the said Message.

And a motion was made, and the question being proposed, "That Privilege of Parliament does not extend to the case of writing, and publishing, seditious Libels, nor ought to be allowed to obstruct the ordinary course of the laws, in the speedy and effectual prosecution of so heinous and dangerous an offence:" and a debate arising in the House thereupon;

The Debate was adjourned till tomorrow.

Ordered, That the matter of the Complaint made to the House, upon the 15th instant, in relation to the Breach of Privilege committed against John Wilkes, esq., a member of this House, be heard upon the 25th.

November 24. The Speaker acquainted the House, that he had, in the chair, received a letter from John Wilkes, esq. a member of this House; the contents of which Mr. Wilkes desired might be communicated to the House. The said Letter was accordingly read.

A Petition of John Wilkes, esq. being offered to be presented to the House; it was ordered, that the other order of the day be now read. And the said order being read accordingly;

The House resumed the adjourned debate, upon the motion made yesterday, "That Privilege of Parliament does not extend to the case of writing and publishing seditious Libels, nor ought to be allowed to obstruct the ordinary course of the laws, in the speedy and effectual prosecution of so heinous and dangerous an offence."

Notice being taken, that from some words which had been spoken in the House, by Mr. James Grenville, and Mr. Rigby, there was reason to apprehend a quarrel might ensue; Mr. Speaker, by direction of the House, required them to stand up in their places, and give the House assurance, not to prosecute what had happened. The said members accordingly severally stood up in their places, and assured the House, that they would not prosecute the matter.

Then the question being put, "That Privilege of Parliament does not extend to the case of writing and publishing seditious Libels, nor ought to be allowed to obstruct the ordinary course of the laws, in the speedy and effectual prosecution of so heinous and dangerous an offence." The House divided: Yeas 258; Noes 133. So it was resolved in the affirmative.*

* "After a series of adjournments, the Commons, on the 23d of November, resumed the consideration of his Majesty's Message, particularly the great and important point of privilege. They had already voted the North Briton a libel, and now they were resolved to vote away privilege in the case of a libel, which they actually did, by a majority of 258 against

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Upon this occasion,

Mr. *Pitt* attended the House, although so severely afflicted with the gout, that he was obliged to be supported to his seat. He spoke strongly against this surrender of the privilege of parliament, as highly dangerous to the freedom of parliament, and an infringement on the rights of the people. No man, he said, could condemn the North Briton more than he did; but he would come at the author fairly, not by an open breach of the constitution, and a contempt of all restraint. This proposed sacrifice of privilege was putting every member of parliament, who did not vote with the minister, under a perpetual terror of imprisonment. To talk of an abuse of privilege, was to talk against the constitution, against the very being and life of parliament. It was an arraignment of the justice and honour of parliament, to suppose that they would protect any criminal whatever. Whenever a complaint was made against any member, the House could give him up. This privilege had never been abused; it had been reposed in parliament for ages. But take away this privilege, and the whole parliament is laid at the mercy of the crown. This privilege having never been abused, why, then, is it to be voted away? Parliament, he said, had no right to vote away its privileges. They were the inherent right of the succeeding members of that House, as well as of the present; and he doubted whether the sacrifice made by that House was valid and conclusive against the claim of a future parliament. With respect to the Paper itself which had given a pretence for this request to surrender the privileges of parliament, the House had already voted it a libel—he joined in that vote. He condemned the whole series of North Britons; he called them illiberal, unmanly, and detestable. He abhorred all national reflections. The King's subjects were one people. Whoever divided them was guilty of sedition. His Majesty's complaint was well-founded, it was just, it was necessary. The author did not deserve to be ranked among the human species—he was the blasphemer of his God, and the libeller of his King. He had no connection with him: he had no connection with any such writer. He neither associated nor communicated with any such. It was true that he had friendships, and warm ones; he had obligations, and great ones; but no friendships, no obligations, could induce him to approve what he firmly condemned. It might be supposed that he alluded to his noble relation (lord Temple). He was proud to call him his relation; he was his friend, his bosom friend, whose fidelity was as unshaken as his virtue. They went into office together and they came out together; they had lived together, and would die together. He knew nothing of any connection with the writer of the libel. If there subsisted any, he was totally unacquainted with it. The dignity, the honour of parliament had been called upon to support and protect the purity of his Majesty's character; and this they had done, by a strong and decisive condemnation of the libel, which his Majesty had submitted to the consideration of the House. But having done this it was neither consistent with the honour and safety of parliament, nor with the rights and interests of the people, to go one step farther. The rest belonged to the courts below.

When he had finished speaking, he left the House, not being able to stay for the division.

It was then ordered that the said Resolution, and also the Resolutions of the 15th, respecting the North Briton, be communicated to the Lords at a conference.

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133. A conference was then demanded with the Lords, in order to communicate to them the resolutions of the Commons, That the North Briton was a seditious libel, that it be burnt, and that privilege of parliament does not extend to the writing and publishing seditious libels, and to desire the concurrence of the Lords; who thereupon agreed with the Commons. This was such a surrender of the antient rights of parliament, in mere compliment to the views and purposes of the crown, that the most sensible and judicious people without doors began to be seriously alarmed, and wondered how, in God's name, the parliament could think of destroying their own personal security, to put an odium upon the chief justice, whose determination on privilege had given such universal satisfaction, and to cover, by that surrender, the blunders of a minister, and the hitherto supposed mistaken opinions of the King's lawyers. But this unbounded complaisance of the parliament seemed to have been foretold, or rather pre-determined by the Attorney General; for though his Majesty had declared in his Message, that he had stayed the law proceedings against Mr. Wilkes, on account of his privilege, yet, before this point was given up by parliament, the Attorney General treated Mr. Wilkes as an unprivileged person, by serving him with a subpœna." History of the Minority, p. 237.

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PROCEEDINGS IN THE LORDS AGAINST MR. WILKES FOR WRITING THE NORTH BRITON NUMBER FORTY-FIVE.] November 29. The order of the day for taking into consideration the Report of the Conference with the Commons on Friday last, being read:

The Resolutions of the House of Commons of the 15th instant respecting the North Briton were read.

Resolved, That this House doth agree with the Commons in the said Resolution; and that the blank be filled up with ["Lords spiritual and temporal and"].

Then the Resolution of the Commons of the 24th instant, was read, as follows:

"Resolved, That Privilege of Parliament does not extend to the case of writing and publishing seditious Libels; nor ought to be allowed to obstruct the ordinary course of the laws in the speedy and effectual prosecution of so heinous and dangerous an offence."

And it being moved, To agree with the Commons in the said Resolution: The same was objected to, and a long debate ensued, in the course of which,

Lord *Lyttelton* rose and said:*

My lords; after what has been said, with so much weight and authority, by a noble and learned lord who presides in the highest court of judicature in this kingdom with such distinguished abilities, it would be vain and impertinent for me, in speaking upon this question, to argue from precedents or constructions of law, and to tell your lordships that public and seditious libels are breaches of the peace, and much higher breaches of it, in the eye of the law, than forcible entries or forcible detainers; in which cases the House of Commons has declared, by a resolution in the year 1697, that no member of that House hath any privilege. Nor need I observe to your lordships, that the standing order of this House, made in the year 1624, has not been, and cannot possibly be, understood by your lordships, as a complete definition of all exceptions to privilege; because, since the making of that order, and before the statute by which forgery was declared to be felony, this House ordered Mr. John Ward to be prosecuted for forgery, without any regard to his privilege, though they knew him to be a member of the lower House of Parliament; and because a subsequent standing order, of the 8th of June, 1757, specifies another exception, not expressed in the former. Both these instances are decisive of the opinion of this House on the question now before you, with regard to the law and usage of parliament: but I shall only beg leave to trouble your lordships with a few observations on the consequences of such an extensive construction of privilege as is contended for by some lords; from whom I am extremely sorry to differ, but from whom I must differ on this occasion, or from all the notions I have formed of that constitution which I am bound to maintain.

My lords, all privileges are subordinate to the great laws of society, to the good order, the peace, and the safety, of the state. The noble duke who spoke last has told your lordships very truly, that this, which is now under your consideration, was not given as a favour to the members of parliament, for their own sakes; but as a guard, which the constitution has set over their persons and necessary attendants, for the security of that duty they owe to the public. From the intention and end of this privilege, the nature and limitations of it may be reasonably inferred. It must not be exercised to the grievous inconvenience and detriment of the public: it must not obstruct the public justice: it must not endanger the public safety. Anarchy, my lords, is not liberty, no more than despotism is government: but true liberty and legal government are inseparably connected: what is adverse to the one, is adverse to the other. The legal power of government, in a well-constituted state, is the guardian of all privileges, charters, and rights: but this guardian must be unable to execute its great trust, if it is not itself supported by that respect and that reverence which is due to it from those to whom it gives protection. What respect, my lords, or what reverence, can be preserved to any government, where sedition may plead privilege, to stop the hands of public justice; and where crimes of the most malignant and dangerous nature, crimes which shake the very foundations of the public tranquillity, may claim the protection of a House of Parliament, to let them go on unrestrained? Can it be possible that a parliamentary sanction and authority should ever be given to a notion so repugnant to the purpose for which parliaments were established, to the *salus populi*, the supreme object of all government?

* This Speech is printed from his lordship's corrected copy.

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The many evils that must attend such a construction of privilege are apparent and dreadful! What is the remedy for those evils? The remedy, we are told, may be properly and safely obtained from either House of Parliament, the privilege of which is a bar to all other relief; the justice of the kingdom will be only stopt till the next meeting of parliament, perhaps for six or seven months. As soon as ever it meets, complaint may be made to your lordships, or to the House of Commons; and then right will be done. How, my lords, will right be done? It is the doctrine of the Commons, that no member can be compelled to wave his privilege; what if he will not wave it?—what if, conscious of guilt and apprehensive of punishment, he skulks behind his privilege, and holds it up as a shield between him and justice? Why then he may be expelled; and after such expulsion he may be prosecuted by the King, without offence to the liberty and independence of parliament.

Is not this, my lords, to declare, that every member of parliament, while he continues a member, though he be guilty of perjury, of misprision of felony, of misprision of treason, though he spread sedition from one end of the kingdom to the other, is absolutely exempt from the justice of the crown? Such an exemption is most abhorrent from the whole spirit and genius of our constitution. It is the worst solecism in politics: it is setting up a kingdom within a kingdom. Something like it I remember to have been claimed by the clergy in the darkest ages of ignorance and popish superstition. They said, their persons were privileged: no process from the king's courts ought to go out against them; but, if any clergyman was accused of any heinous misdemeanor, application might be made to the spiritual court; there the cause may be tried; and, if that court found him guilty, he would be deprived of his orders; after which, being no member of their sacred body, the justice of the kingdom might take hold of him; but not before. This proposition appeared so monstrous, that even those times would not bear it; and yet, my lords, it may perhaps be thought more excusable to suffer a number of criminals to be out of the reach of public justice, from false notions of piety and a respect for religion in the persons of its ministers, than where it might be imagined that a partiality for ourselves occasioned the exemption.

I will not repeat to your lordships the black catalogue of crimes, and the great multitude of criminals, that you have been told by a noble and learned lord, would be comprehended within this construction of privilege, if it should be established. With regard to all these, the King would in effect be dethroned: he would bear the sword in vain; he would be no terror to evil doers; his hands would be tied, till your lordships, or the lower House of Parliament, or the convocation, if the offender should belong to their body, would be pleased to unbind them. Is this, my lords, the law and constitution of England, the first maxim of which is, that all justice flows from the crown? The king is sworn to do justice, impartial and equal justice. He is the vicegerent of that God to whom vengeance belongs. What power upon earth can intercept or delay that righteous vengeance?—what power upon earth can have any right, any privilege, to interpose itself between him and the performance of his oath, which is an essential part of the duty he owes to his people? By the constitution of England, allegiance is tied to protection: if you deprive the subjects of the benefit of the royal protection, you dissolve their allegiance.

With respect to that particular species of crimes which is immediately under your consideration, I will venture to say, that felony itself is in no degree so alarming, so pernicious to the public, as some seditious libels. They respect nothing; they spare nothing: the crown, the legislature, public order, morality, the divine Majesty itself, is not exempt from their insults. Permit me, my lords, to paint to you in a very few words the present condition of this country, with relation to what is called the liberty of the press. If a foreigner were to take his ideas of England from the printed libels on both sides, he would think we had no government, no law, no God. I will spare your lordships the contemplation of so frightful a picture in its full length and dimensions; and confine myself to two points, which I think more especially demand your attention.

There are two advantages upon which our public welfare and strength particularly depend; both of which these wicked libellers have most diligently and maliciously endeavoured to destroy; I mean, the union of the two kingdoms of England and Scotland; and that extinction of party spirit, the bane of all public spirit, I say, my lords,

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that extinction of party spirit, which crowned with happiness and with glory the latter years of our late most gracious sovereign, and the beginning of his present Majesty's most auspicious, most benignant, and most prosperous reign. Of these inestimable blessings these execrable writings have attempted to deprive us: they have breathed a spirit of discord, which, if great care be not taken to stop the farther progress of it, will avenge the enemies of this country of all the evils they have suffered from that invincible force and energy, which a very different spirit, a spirit of union and concord, enabled us to exert. What can be imagined more injurious, more fatal to our happiness, than weekly and daily libels, sent all over the kingdom, which have a strong and manifest tendency to break those ties of mutual interest and mutual affection, which bind and knit us together; and to raise animosities, jealousies, deadly feuds, and civil wars, between the two nations? If the detected authors of such writings, by being members of parliament, a circumstance which in reality much enhances their guilt, may go on with full security, in open defiance of all law and legal authority, to inflame the wounds they have made, to infuse into them new venom, till they are rendered incurable; if this indeed be English liberty, then, I am sure, our constitution will be *felo de se*, and wants no enemy but itself to bring itself to destruction.

But we ought to be very careful of the privileges of parliament. Alas, my lords, in that total anarchy, in that dissolution of all government, which this unbounded licentiousness must necessarily produce, will parliament be secure? When a city is set on fire, if nothing is done to extinguish or stop the conflagration, will the flames respect the senate house any more than the palace? Great apprehensions are conceived, if your lordships should agree to this resolution of a terrible abuse of their power in the ministers of the crown, by wantonly and maliciously imprisoning members of either House of Parliament, for innocent writings. Many answers may be given to those apprehensions: I shall only insist upon one. The administration of justice, and the execution of laws, are, by the constitution of our government, entrusted to the crown and its officers; but entrusted under checks beneficial to liberty, beneficial to justice. Of all those checks, the most effectual is the superintendence of parliament, which is as formidable to the highest magistrate as it is to the lowest: to the secretary of state as to the justice of peace. And the terror of this must operate in a particular manner, where the privileges of parliament itself are concerned. In a bailable case, as this is, the confinement must be presently ended: at the first sitting of the parliament, the House must know of the reasons of the commitment; if they are not sufficient, immediate vengeance will fall on the head of the minister, who has injured the House in the person of its member. Thus, my lords, both the government and our liberty are as safe as the imperfection of human policy will allow them to be. But if you change this wise system, if you take the executive power from the crown, and place it in either House of Parliament, what check, what control, will then remain?—An arbitrary power will be there, which is no where else in our government: an arbitrary power without appeal.

I therefore hope, that your lordships will not differ from the Commons in this resolution: but, at the same time, I respect and venerate the principle, upon which the opposition to it is founded; a principle of jealous caution, not to do any thing that may hurt the independence of parliament, which is so important to the security of the whole commonwealth. Such a caution is very commendable, and the zeal excited by it meritorious, even where it is mistaken. I congratulate your lordships, I congratulate the whole nation, on that zeal being so warm in the breasts of young noblemen, who have spoken so ably and so eloquently in this debate. But in order to preserve the independence of parliament against any future violations on the part of the crown, it will be necessary to preserve the reputation of parliament in the minds of the people, and the love of it in their hearts. How, my lords, can this be done, if they find it an obstacle to that equal justice which is their birthright and their safety?

Upon the whole, I am confident, your lordships will on no account depart from that maxim, which is the corner-stone of all government! that justice should have its course, without stop or impediment. 'Jus, fas, lex, potentissima sint:' This, my lords, is the very soul and essence of freedom. Obstruct this, and you immediately open a door to all violence and confusion, to all the iniquity and all the

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cruelties of private revenge, to the destruction of private peace, the dissolution of public order, and in the end to an unlimited and despotic authority, which we must be forced to submit to, as a remedy against such intolerable evils. The dominion of law is the dominion of liberty. Privilege against law, in matters of high concernment to the public, is oppression, is tyranny, wheresoever it exists.

The question was put whether to agree with the Commons in the said Resolution; it was resolved in the affirmative.

Protest against the Resolution, "That Privilege of Parliament does not extend to the Case of Libels." *] The following Protest was entered on the Journals:

"Dissentient.

"Because we cannot hear without the utmost concern and astonishment, a doctrine advanced now, for the first time, in this House, which we apprehend to be new, dangerous and unwarrantable, viz. That the personal privilege of both Houses of Parliament has never held, and ought not to hold in the case of any criminal prosecution whatsoever; by which, all the records of parliament, all history, all the authorities of the gravest and soberest judges, are entirely rescinded; and the fundamental principles of the constitution, with regard to the independence of parliament, torn up and buried under the ruins of our most established rights.

"We are at a loss to conceive, with what view such a sacrifice should be proposed, unless to amplify, in effect, the jurisdiction of the inferior, by annihilating the ancient immunities of this superior court. The very question itself, proposed to us from the Commons, and now agreed to by the Lords, from the letter and spirit of it, contradicts this assertion; for, whilst it only narrows privilege in criminal matters, it establishes the principle.

"The law of privilege, touching imprisonment of the persons of lords of parliament as stated by the two standing orders, declares generally, 'That no lord of parliament, sitting the parliament, or within the usual times of privilege of parliament, is to be imprisoned or restrained, without sentence or order of the House, unless it be for treason or felony, or for refusing to give security for the peace, and refusal to pay obedience to a writ of Habeas Corpus.'

"The first of these orders was made, after long consideration, upon a dispute with the king, when the precedents of both Houses had been fully inspected, commented upon, reported, and entered in the Journals, and after the king's counsel had been heard. It was made in sober times, and by a House of Peers not only loyal, but devoted to the crown; and it was made by the unanimous consent of all, not one dissenting. These circumstances of solemnity, deliberation, and unanimity, are so singular and extraordinary, that the like are scarce to be found in any instance among the records of parliament.

"When the two cases of surety for the peace and Habeas Corpus come to be well considered, it will be found that they both breathe the same spirit, and grow out of the same principle.

"The offences that call for surety and Habeas Corpus, are both cases of present continuing violence; the proceedings in both have the same end, viz. to repress the force, and to disarm the offender.

"The proceeding stops in both when that end is attained,

"The offence is not prosecuted nor punished in either.

"The necessity is equal in both, and, if privilege was allowed in either, so long as the necessity lasts, a lord of parliament would enjoy a mightier prerogative than the crown itself is intitled to. Lastly, they both leave the prosecution of all mis-

* "The opposition in the House of Lords, to this surrender of privilege, was vigorous and powerful. It was managed and led by the earl Temple, who shewed himself to be as zealous a defender of the privileges of parliament, as he had been the securer of the liberties of the people; and though out-voted, yet he transmitted his opinion to posterity, in a Protest that does infinite honour to his judgment and spirit. It is worthy of notice, that at a previous meeting at Devonshire-house, of such lords as were expected to sign the protest, the duke of Newcastle desired to be excused putting his name to it, on account of his friend lord Hardwicke, who had declared his opinion against privilege. By this determination (which the Lords came to without calling in the advice of the judges) the members of both Houses lie at the mercy of the King's Attorney General, who may, on the suggestion of any of them being libellers, imprison their persons merely for the sake of preventing their attending any particular vote or debate. Doubtless, neither of the Houses conceived, by surrendering this supposed privilege, they thereby broke in upon the rights of the people of England, in thus subjecting their representatives to the possibility of such restraints." History of the Minority, p. 240.

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demeanours still under privilege, and do not derogate from that great fundamental that none shall be arrested, in the course of prosecution, for any crime under treason and felony.

"These two Orders comprize the whole law of privileges, and are both of them Standing Orders, and, consequently, the fixed laws of the House, by which we are all bound until they are duly repealed.

"The Resolution of the other House, now agreed to, is a direct contradiction to the rule of parliamentary privilege laid down in the aforesaid Standing Orders, both in letter and spirit. Before the reasons are stated, it will be proper to premise two observations:

"That in all cases where security of the peace may be required, the lord cannot be committed till that security is refused, and consequently, the magistrate will be guilty of a breach of privilege if he commits the offender without demanding that security.

"Although the security should be refused, yet if the party is committed generally, the magistrate is guilty of a breach of privilege, because the party refusing ought only to be committed till he has found sureties; whereas, by a general commitment, he is held fast, even though he should give sureties, and can only be discharged by giving bail for his appearance.

"This being premised, the first objection is to the generality of this Resolution, which, as it is penned, denies the privilege to the supposed libeller, not only where he refuses to give sureties, but likewise throughout the whole prosecution, from the beginning to the end; so that, although he should submit to be bound, he may, notwithstanding, be afterwards arrested, tried, convicted, and punished, sitting the parliament, and without leave of the House, wherein the law of privilege is fundamentally misunderstood, by which no commitment whatsoever is tolerated, but that only which is made upon the refusal of the sureties, or in the other excepted cases of treason or felony, and the Habeas Corpus.

"If privilege will not hold throughout in the case of a seditious libel, it must be because that offence is such a breach of the peace, for which sureties may be demanded; and if it be so, it will readily be admitted, that the case comes within the exception, provided always that sureties have been refused, and that the party is committed only till he shall give sureties.

"But this offence is not a breach of the peace; it does not fall within any definition of a breach of the peace, given by any of the good writers upon that subject; all which breaches, from menace to actual wounding, either alone or with a multitude are described to be acts of violence against the person, goods, or possessions, putting the subject in fear by blows, threats, or gestures. Nor is this case of the libeller ever enumerated in any of these writers among the breaches of peace; on the contrary, it is always described as an act tending to excite, provoke, or produce breaches of the peace; and although a Secretary of State may be pleased to add the enflaming epithets of treasonable, traiterous, or seditious, to a particular paper, yet no words are strong enough to alter the nature of things. To say then, that a libel, possibly productive of such a consequence, is the very consequence so produced, is, in other words, to declare, that the cause and the effect are the same thing.

"But if a libel could possibly, by any abuse of language, or has any where been called, inadvertently, a breach of the peace, there is not the least colour to say that the libeller can be bound to give sureties for the peace, for the following Reasons:

"Because none can be so bound unless he be taken in the actual commitment of a breach of the peace, striking, or putting some one or more of his Majesty's subjects in fear.

"Because there is no authority, or even ambiguous hint, in any law book, that he may be so bound.

"Because no libeller, in fact, was ever so bound.

"Because no crown lawyer, in the most despotic times, ever insisted he should be so bound, even in days when the press swarmed with the most invenomed and virulent libels, and when the prosecutions raged with such uncommon fury against this species of offenders; when the law of libels was ransacked every term; when loss of ears, perpetual imprisonment, banishment, and fines of 10 and 20 thousand pounds, were the common judgments in the Star Chamber; and when the crown had assumed an uncontroulable authority over the press.

"This Resolution does not only infringe the privilege of parliament, but points to the restraint of the personal liberty of every common subject in these realms;

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seeing that it does in effect affirm, that all men, without exception, may be bound to the peace for this offence.

"By this doctrine, every man's liberty, privileged as well as unprivileged, is surrendered into the hands of a secretary of state: he is by this means empowered, in the first instance, to pronounce the paper to be a seditious libel, a matter of such difficulty, that some have pretended it is too high to be entrusted to a special jury of the first rank and condition: he is to understand and decide by himself the meaning of every innuendo: he is to determine the tendency thereof, and brand it with his own epithets: he is to adjudge the party guilty, and make him author or publisher, as he sees good; and lastly, he is to give sentence, by committing the party.

"All these authorities are given to one single magistrate, unassisted by counsel, evidence, or jury, in a case where the law says no action will lie against him because he acts in the capacity of a judge.

"From what has been observed, it appears to us, that the exception of a seditious libel from privilege is neither founded on usage or written precedents; and therefore this Resolution is of the first impression: nay, it is not only a new law narrowing the known and ancient rule, but it is likewise a law *ex post facto, pendente lite, et ex parte*, now first declared to meet with the circumstances of a particular case: and it must be further considered, that this House is thus called upon to give a sanction to the determinations of the other, who have not condescended to confer with us upon this point, till they had prejudged it themselves.

"This method of relaxing the rule of privilege, case by case, is pregnant with this further inconvenience, that it renders the rule precarious and uncertain. Who can foretell where the House will stop, when they have, by one infringement of their own standing orders, made a precedent, whereon future infringements may with equal reason be founded? How shall the subject be able to proceed with safety in this perilous business? How can the judges decide, on these or the like questions, if privilege is no longer to be found in records, and journals, and standing orders? Upon any occasion, privilege may be enlarged; no court will venture, for the future, without trembling, either to recognize or to deny it.

"We manifestly see this effect of excluding by a general resolution one bailable offence from privilege to day; that it will be a precedent for doing so by another upon some future occasion, till, instead of privilege holding in every case not excepted, it will at last come to hold in none but such as are expressly saved.

"When the case of the Habeas Corpus is relied upon as a precedent to enforce the present declaration, the argument only shews, that the mischief aforementioned has taken place already; since one alteration, though a very just one, and not at all applicable to the present question, is produced, to justify another that is unwarrantable.

"But it is strongly objected, that if privilege be allowed in this case, a lord of parliament might endanger the constitution, by a continual attack of successive libels; and if such a person should be suffered to escape, under the shelter of privilege, with perpetual impunity, all government would be overturned; and therefore it is inexpedient to allow the privilege now, when the time of privilege by prorogations is continued for ever, without an interval.

"This objection shall be answered in two ways: if inexpediency is to destroy personal privilege in this case of a seditious libel, it is at least as inexpedient that other great misdemeanours should stand under the like protection of privilege; neither is it expedient that the smaller offences should be exempt from prosecution in the person of a lord of parliament. So that, if this argument of inexpediency is to prevail, it must prevail throughout, and subvert the whole law of privilege in criminal matters; in which method of reasoning, there is this fault, that the argument proves too much.

"If this inconvenience be indeed grievous, the fault is not in the law of privilege, but in the change of times, and in the management of prorogations by the servants of the crown; which are so contrived, as not to leave an hour open for justice. Let the objection, nevertheless, be allowed in its utmost extent; and then compare the inexpediency of not immediately prosecuting on one side, with the inexpediency of stripping the parliament of all protection from privilege on the other: unhappy as the option is, the public would rather wish to see the prosecution for crimes suspended, than the parliament totally unprivileged; although, notwithstanding this pretended inconvenience is so warmly magni-

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fied upon the present occasion, we are not apprized that any such inconvenience has been felt, though the privilege has been enjoyed time immemorial.

"But the second and best answer, because it removes all pretence of grievance, is this, that this House, upon complaint made, has the power (which it will exert in favour of justice) to deliver up the offender to prosecution.

"It is a dishonourable, and an undeserved imputation upon the Lords, to suppose, even in argument, that they would nourish an impious criminal in their bosoms, against the call of offended justice, and the demand of their country.

"It is true however, and it is hoped that this House will always see (as every magistrate ought that does not betray his trust) that their member is properly discharged; but when that ground is once laid, they would be ashamed to protect the offender one moment. Surely this trust, which has never yet been abused, is not too great to be reposed in the high court of parliament; while it is lodged there, the public justice is in safe hands, and the privilege untouched; whereas, on the contrary, if, for the sake of coming at the criminal at once, without this application to the House, personal privilege is taken away, not only the offender, but the whole parliament, at the same time, is delivered up to the crown.

"It is not to be conceived that our ancestors, when they framed the law of privilege, would have left the case of a seditious libel, as it is called, the only unprivileged misdemeanor. Whatever else they had given up to the crown, they would have guarded the case of supposed libels, above all others, with privilege, as being most likely to be abused by outrageous and vindictive prosecutions.

"But this great privilege had a much deeper reach; it was wisely planned, and hath hitherto, through all times, been resolutely maintained.

"It was not made to screen criminals, but to preserve the very being and life of parliament; for when our ancestors considered that the law had lodged the great powers of arrest, indictment, and information, in the crown, they saw the parliament would be undone, if, during the time of privilege, the royal process should be admitted in any misdemeanor whatsoever: therefore they excepted none. Where the abuse of power would be fatal, the power ought never to be given, because redress comes too late.

"A parliament, under perpetual terror of imprisonment, can neither be free, nor bold, nor honest; and if this privilege was once removed, the most important question might be irrecoverably lost, or carried by a sudden eruption of messengers, let loose against the members half an hour before the debate.

"Lastly, As it has already been observed, the case of supposed libels is, of all others, the most dangerous and alarming to be left open to prosecution during the time of privilege.

"If the severity of the law, touching libels, as it hath sometimes been laid down, be duly weighed, it must strike both Houses of Parliament with terror and dismay.

"The repetition of a libel, the delivery of it unread to another, is said to be a publication: nay, the bare possession of it has been deemed criminal, unless it is immediately destroyed or carried to a magistrate.

"Every lord of parliament then, who hath done this, who is falsely accused, nay, who is, though without any information, named in the Secretary of State's warrant, has lost his privilege by this Resolution, and lies at the mercy of that enemy to learning and liberty, the messenger of the press.

"For these and many other forcible reasons, we hold it highly unbecoming the dignity, gravity and wisdom, of the House of Peers, as well as their justice, thus judicially to explain away and diminish the privilege of their persons, founded in the wisdom of ages, declared with precision in our standing orders, so repeatedly confirmed, and hitherto preserved inviolable by the spirit of our ancestors, called to it only by the other House, on a particular occasion, and to serve a particular purpose, *ex post facto, ex parte, et pendente lite* in the courts below.——(*Signed*) Temple, Bolton, Grafton, Cornwallis, Portland, Bristol, Devonshire, Scarborough, Dacre, Abergavenny, Fred. Litch. & Cov.; Ashburnham, Fortescue, Grantham, Walpole, Ponsonby, Folkestone."

Address of both Houses to the King concerning the North Briton, Number Forty-five.] December 1. Another Conference took place between the two Houses, when the following Resolution and Address were agreed to:

"Resolved, by the Lords spiritual and

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temporal and Commons in parliament assembled, that the printed paper, intituled, "The North Briton, No. 45," which was communicated to the Lords at the last conference, be burnt, by the hands of the common hangman, at the Royal Exchange in London, upon Saturday next, at one of the clock; and that the sheriffs of London do then attend, and cause the same to be burnt there accordingly."

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and faithful subjects, the Lords spiritual and temporal and Commons in parliament assembled, having taken into our consideration a late false, scandalous, and seditious libel, intituled, "The North Briton, No. 45," think it our indispensable duty to express our surprise and indignation at finding, that neither the public nor private virtue, which so eminently entitle your Majesty to the highest veneration, as well as to the most grateful and loyal attachment of all your subjects; nor the gracious expressions of your tender care and affection for your people, in your Majesty's speech from the throne, at the end of the last session of parliament; which has been thus infamously traduced; should have been sufficient to secure your Majesty from so insolent and unexampled an indignity.

"Such, indeed, has been your Majesty's uniform adherence to the principles of our happy constitution; and such the uninterrupted harmony and good correspondence between your Majesty and your parliament; that it is no wonder to see, that the same audacious hand, which hath dared thus grossly to affront your Majesty, should, at the same time, violate the other sacred regards prescribed by the laws and constitution of this country; aspersing and calumniating every branch of the legislature; and endeavouring to excite, amongst all ranks of your Majesty's subjects, such a spirit of discord and disobedience, as could end in nothing but the total subversion of all lawful government.

"Permit us also to express to your Majesty our firm persuasion and just confidence, that this most extravagant and outrageous attempt will prove as impotent as it is wicked; that, instead of answering those purposes for which it appears to have been calculated, it will, on the contrary, serve to excite in your faithful subjects the abhorrence of such dangerous practices, to unite them more firmly in their zealous attachment to your Majesty's person and government, and in a due reverence for the authority of the legislature; and lastly, that in consequence of your Majesty's directions to prosecute the authors of this infamous libel, it will bring such punishment upon those who shall be found guilty of so atrocious a crime, as the laws of their country have prescribed, and as the public justice and safety shall demand."

The King's Answer.] His Majesty returned this Answer:

"My Lords, and Gentlemen;

"The very affectionate zeal which you express for the vindication of my honour, and your declared resolution to support the authority of parliament, cannot fail of being extremely grateful to me. It has been hitherto, and it always shall be, my care, to regulate my conduct according to the principles of the constitution. I will not, therefore, be wanting, in carrying the laws into execution against all who shall presume to violate any of those principles; and in this resolution I doubt not of receiving the hearty concurrence and support both of my parliament and my people."

Proceedings in both Houses respecting the Riot at the burning the NORTH BRITON *Number* 45.] December 6. The Lords being informed, that the Sheriffs of London were attending, according to order: they were called in, to the bar; and directed to give the House an account of the obstructions made to the execution of an order of both Houses of Parliament, for burning the paper, intitled, "The North Briton, No. 45," on Saturday last.

Whereupon Mr. Alderman *Harley* acquainted the House, "That the Sheriffs met at Guildhall on Saturday last, and about half an hour after twelve o'clock they went from thence to carry into execution the order of both Houses of Parliament; that, at the entrance into Cornhill, he was met by the City Marshal, who acquainted him, "That there was a very great riot and tumult; and that he apprehended he could not carry the order into execution without a military force." To which he replied, "That he would endeavour to do it." That he was also met by several constables, who told him, "There was a great number of rioters, who had been encouraged by gentlemen in coffee-houses and balconies;" and was also advised by the Secondary to retreat to the

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Mansion House; but that he was determined to carry the order into execution if possible; and accordingly went on in his chariot; but the mob were so numerous, and the hissings so great, that the horses were frightened, and he could not get to the place where the paper was to be burnt. Upon which, he got out of his chariot, and went to the place where the fuel was prepared; but the wood was so wet, that it could not take fire; but he read the order, and gave the paper with his own hands into the hands of the executioner, who held it on the lighted torch, which he held in his hand till it was burnt; and that he saw it burnt pursuant to the order. After which, he got into his chariot, in order to retreat; but the mob pelted the constables with billets and sticks, that they were forced to give way; and that one of the billets was thrown at his chariot, and broke the fore-glass of it; and then he retreated to the Mansion House. That he heard nothing of any riot when he set out from Guildhall; but believed the city marshal could give some account of what passed before."

Then Mr. Alderman *Blunt*, the other Sheriff, said, "That he had but little to add to the account given by Mr. Alderman Harley. That the first news they had of the riot was when they were near to the Mansion House; that the mob threatened to overturn his chariot; upon which he got out of it, and was hustled by the mob; and when he got in again, they surrounded and stopped his chariot, so that he could get no farther."

Then Mr. *Osmond Cooke*, the City Marshal, was directed to give an account of what he knew of the riot on Saturday last; and says, "That the Sheriffs sent to him on Friday evening, to acquaint him with the order for burning the paper, and to order him to attend; and that accordingly he went on Saturday morning, about 11 o'clock, with the executioner and the constables, to see every thing prepared; that the mob hissed, and pelted him with mud, and struck him, and spit in his face, crying out, "Wilkes and Liberty;" that he went to meet the Sheriffs, to acquaint them; and that he met the Sheriffs near the Mansion-house, and acquainted them with it; but Mr. Sheriff Harley said, "They must go on;" which he did accordingly; and that Mr. Sheriff Harley was insulted while he was reading the order for burning the paper; and that he saw more than half of it burnt: after which the fore-glass of Mr. Sheriff Harley's chariot was broke by a billet of wood which was flung at it; and afterwards a man was brought to the Mansion-house, who, they said, was the person that did it; and he was committed." Being asked, Whether he knew any persons that were assisting and encouraging the mob?" Says, "There were several persons well-dressed, who encouraged the mob, from the Union coffee-house, and from the balcony on this side of the Union coffee-house; but he does not know any of them." Being asked, "What number of constables attended?" Says, "The number ordered were 234; and he believes very near 200 attended." Asked, "Whether it was known at the Mansion-house that there was a riot?" Says, "He believes the noise of the mob might be heard in the Mansion-house." Asked, "Whether he received any order from the Lord Mayor, or any alderman or justice of the peace in the city, for quelling the mob?" Says, "He did not." Asked, "Whether the Lord Mayor was at the Mansion-house when he acquainted the Sheriffs that there was a mob?" Says, "He believes he was." Asked, "Whether there was any contrary party, that endeavoured to assist and defend the constables?" Says, "He saw none; the mob were all of the same side."

Then the Sheriffs were called in again; and asked, "Whether the Lord Mayor was at the Mansion-house on Saturday last, when they went to the Mansion-house?" And Mr. Sheriff Harley says, "When the Sheriffs retreated to the Mansion-house, they found the Lord Mayor there, doing his usual busines." Being asked, "Whether the Lord Mayor, or any of the aldermen, sent any orders for quelling the mob?" Says, "He does not know that they did. There is always upon these occasions a precept issued to the alderman of every ward, to send the constables of his ward." Asked, "Whether, during the riot, any magistrate of the city did appear, and give any orders for quelling the mob?" Says, "He does not know that they did." Asked, "Whether the Riot Act was read, or attempted to be read?" Says, "It was not."

Then *David Bell* was called in; and directed to give an account of what he knew of the riot on Saturday last: says, "He was there, and within ten yards of the place where the paper was burnt; that he saw part of it burnt, but believes

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it was not all burnt; that he saw several well-dressed persons from the shops and balconies, who encouraged the mob, particularly from a shop over-against the place where the paper was burnt; but did not know any of them."

Then *Thomas Collins* was called in; and directed to give an account of what he knew of the riot on Saturday last. And says, "That he was there when the executioner brought the wood for the fire; that there was a general hiss, and the mob stopt him, and he could not get up to the place with it; that he observed one man particularly, who was very active; and he seized him two or three times, but he was rescued by the mob; that he saw well-dressed people in the shops and balconies who encouraged the mob." Being asked, "What carried him there?" Says, "He was ordered, by Mr. Carrington the messenger, and Mr. Webb solicitor of the treasury, to attend to meet them."

Then *Alexander Fall* was called in; and directed to give an account of what he knew of the riot on Saturday last. And says, "That he was there, and saw the faggots brought for burning the paper; that about a quarter before twelve the mob increased very much, and when they saw the Sheriffs coming, they stopt them; but Mr. Sheriff Harley drove on with great intrepidity, and got to the place, and read the order, and delivered the paper to the executioner, and it was burnt on a lighted torch; but the mob snatched at the paper, and he believes it was not all burnt, but a piece of it was snatched from the torch." Asked, "Whether he saw any persons from the Union coffee-house, or balconies, encouraging the mob?" Says, "He did, but he did not know any of them. He heard one man call out to the mob, "Well done, boys; bravely done, boys!" Asked, "Whether the mob had any particular cry?" Says, "The general cry was, "Wilkes and Liberty."

Resolved, *nem. con.* That all persons concerned in the riot at the burning of "The North Briton, No. 45," on Saturday last, their aiders and abettors, are perturbators of the public peace, dangerous to the liberties of this country, and obstructors of national justice.

Ordered, That this Resolution be communicated to the Commons, at a conference; and that their concurrence be desired therein.

Resolved, That the Sheriffs of London have done their duty with spirit and vigour in the execution of the order of both Houses of Parliament.

Ordered, That the Thanks of this House be given to the Sheriffs of London; and that the Lord Chancellor do acquaint them with the said Resolution, and give them the Thanks of the House.

And thereupon the said Sheriffs were called in; and the Lord Chancellor acquainted them with the said resolution; and gave them the Thanks of the House accordingly.

December 7. The Commons resolved *nem. con.* That the Sheriffs of London and Middlesex have conducted themselves with proper spirit and vigour in the execution of the orders of both Houses of Parliament, for burning "the North Briton, No. 45," on Saturday last: and that Mr. Speaker do return them the Thanks of this House for their good behaviour therein.

And Mr. Alderman Harley, a member of this House, one of the sheriffs of London and Middlesex, being in the House, Mr. Speaker acquainted him with the said Resolution; and gave him the Thanks of the House, as follow:

"Mr. Sheriff Harley,

"Upon the enquiry which this House has made, into a very high insult lately offered to the authority of parliament, and the laws of the land, they could not pass by unnoticed, the zealous endeavours of yourself and your worthy colleague in support of both: but, as I cannot better express the sense, which this House has of your conduct, on this occasion, than in their own words, I will read to you, Sir, the Resolution to which they have just now agreed. [Reads the above Resolution.]

"That spirit of licentiousness, which so unhappily prevails at present, however it may be disguised under the specious name of liberty, is diametrically opposite to, and subversive of, it; and unless a seasonable check is put to this spirit, it cannot fail of ending in anarchy, the sure forerunner of the rankest tyranny and despotism.

"True liberty consists in that security which the laws and our happy constitution give us, for our persons, our lives, and our property; nor can this valuable blessing be preserved without a due veneration for the legislative authority of the kingdom, and a perfect obedience to the law. These

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will be kept up, if the civil magistrates (especially those who fill that high and important station, to which you have been called by your fellow citizens) faithfully discharge the trust reposed in them.

"How great therefore, Sir, must your merit be, who, in defence of parliament and the law, have, with a truly becoming fortitude and resolution, exposed your person to the greatest danger, from the fury and resentment of a lawless mob. Such merit is intitled to the highest reward: you cannot receive a greater and more honourable one (and I am persuaded, Sir, you are of that opinion) than the approbation of the Commons of Great Britain.

"The commands of this House will be always obeyed by me with the greatest pleasure, but I think myself particularly happy to receive them upon the present occasion; I could only have wished I had not been so suddenly called upon, that I might have endeavoured at least, to have performed this duty in a manner more suitable to the House as well as to yourself: however, in the best manner I am able upon so short a recollection, I do, in obedience to those orders, return you, Sir, the unanimous thanks of this House, for the spirit and vigour, with which you conducted yourself in the execution of the orders of both Houses of Parliament, for burning the North Briton, No. 45, on Saturday last."

Upon which Mr. Alderman *Harley* said,

"Mr. Speaker,

"It is with the greatest difficulty I now rise, to express a due sense of the high honour which the House has now conferred upon me, by signifying their approbation of my conduct on Saturday last; I cannot help thinking, that the House has greatly overvalued my services on that occasion, and lamenting that it was not in my power to put that order in execution, in a manner more suitable to the honour and dignity of parliament. The only return that I can make for this signal mark of favour, is, to assure the House, that so long as I continue in the high office which I now bear in the city of London, I shall firmly, vigorously, and actively, see the laws carried into execution, which are so essentially necessary for the good order and government of this kingdom.

"Give me leave, Sir, to return you my sincere thanks, for the very obliging manner in which you have expressed yourself on this occasion; and to assure you, that I shall ever retain a grateful sense of it, and make it the pride and glory of my life to deserve it."

Resolved, *nem. con.* That an humble Address be presented to his Majesty, that he will be graciously to give directions, that the most effectual method may be taken for discovering the persons concerned in the late dangerous riot, upon the burning of the North Briton, in pursuance of a sentence passed unanimously by both Houses of Parliament; together with their aiders and abettors.

Proceedings in the Commons on the Expulsion of Mr. Wilkes.] December 9. Complaint was made to the House, that, in breach of the privilege of that House, Alexander Dunn had several times lately threatened violence against the person of John Wilkes, esq., and that he did on the Tuesday then last, endeavour to force into the house of the said Mr. Wilkes, in order to assassinate him; and the House being informed that the said Dunn was then in custody of Mr. Richard Elston, tipstaff to sir Eardley Wilmot, knight, one of the justices of the court of King's-bench, by virtue of a warrant under the hand and seal of the said Mr. Justice Wilmot; it was thereupon ordered, that the said Elston should bring the said Dunn, in safe custody, to that House the next morning, and that Mr. Speaker should issue his warrant accordingly; and two persons then named were ordered to attend the House at the same time, for proving the facts complained of: but next day, as soon as the reading of this order of the day was moved for, the House being informed that some persons attended at the door who could prove the lunacy of the said Dunn, they were called in, and having affirmed at the bar that he was insane, it was resolved to discharge Elston from any farther attendance on the House with Dunn.

December 16. As soon as the order of the day for Mr. Wilkes's attending in his place was read, the House being informed that the physician and surgeon were attending at the door, according to the orders made by the House on the 14th, they were called in, and at the bar gave the House an account of the then present state of Mr. Wilkes's health; whereupon it was ordered, That the said Mr. Wilkes should attend that House, in his place, upon Tuesday the 19th of January next,

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if his health would then permit; and as soon as this was agreed to, a motion was made, that Dr. Heberden, the physician, and Mr. Cæsar Hawkins, one of his Majesty's serjeant surgeons, be desired to attend John Wilkes, esq. from time to time, at proper intervals, to observe the progress of his cure; and that they, together with Dr. Brocklesby, and Mr. Graves, do attend this House, to report their opinion thereupon, on the 19th of January next, in case the said John Wilkes, esq. be not then able to attend in his place. Though the House was now become thin, because no such motion was expected, yet this motion was opposed, and the previous question moved for, which, after debate, was put, and carried in the affirmative by 71 to 30; after which the main question being put, was agreed to, and it was ordered accordingly; and then the hearing of Mr. Wilkes's first complaint of a breach of privilege was put off to the same day. During this recess Mr. Wilkes retired to France.*

January 19, 1764. The order of the day being read, for the attendance of John Wilkes, esq., in his place, to answer a charge mentioned in an order of this House of the 1st of December last; the Speaker acquainted the House, that he, upon Tuesday last, received a letter by the general post from Mr. Wilkes, dated Paris the 11th instant, inclosing a paper in the French language, purporting to be a certificate of one of the French king's physicians, and of a surgeon of the said king's army, relating to the state of Mr. Wilkes's health, subscribed with two names, but not authenticated before a notary public, nor the signature thereof verified in any manner whatsoever. And the Speaker read the said letter to the House; and, by direction of the House, stated the purport of the said paper to the House.

The said Letter and Paper are as follows; *viz.*

"*Paris, Hotel de Saxe, Jan.* 11, 1764.

"Sir; I cannot express the concern I

* "Numerous actions had been commenced against the messengers, by persons arrested under the general warrant, to recover damages for false imprisonment. They were all tried in the court of Common Pleas, and verdicts of various amounts recovered. Mr. Wilkes had also brought actions against the two secretaries of state, and against Mr. Wood, under-secretary of state, for injuries sustained on the same occasion. The proceedings against lord Egremont abated by reason of his death. Lord Halifax, by various exertions of privilege, and at length, by standing out in contempt of the court, procured delay till Mr. Wilkes was outlawed. The action against Mr. Wood was tried before a special jury at Guildhall, and after a hearing of fifteen hours, a verdict was given for 1,000*l.* damages. Bills of exception were tendered and allowed in this and the causes against the messenger. The Lord Chief Justice, on this occasion, extended his former opinion so far as to declare the warrant unconstitution, illegal, and absolutely void. "If it be good," he said, "a secretary of state can delegate and depute any one of his messengers, or any, even from the lowest of the people, to take examinations, to commit or release, and, in fine, to do every act which the highest judicial officers the law knows can do or order. There is no authority in our law books that mentions this kind of warrants, but in express terms condemns them. Upon the maturest consideration, I am bold to say, this warrant is illegal; but I am far from wishing a matter of this consequence should rest solely on my opinion. It may be referred to the twelve judges, and there is a still higher court, before which it may be canvassed, and whose determination is final. If these superior jurisdictions should declare my opinion erroneous, I submit as will become me, and kiss the rod; but I must say, I shall always consider it as a rod of iron for the chastisement of the people of Great Britain."

"The judgment respecting the illegality of general warrants was afterward, on arguing the bills of exceptions, affirmed by lord Mansfield. Soon after the verdict in Mr. Wilkes's favour, a man of the name of Dun called at his house, but being refused admittance, went to a coffee-house in the neighbourhood, and declared that he and ten more were determined 'to cut Wilkes off, let the event be what it 'might.' He again applied to see Mr. Wilkes, and was taken into custody, when a new penknife was found in his pocket. A complaint was made in the House of Commons, but his insanity being clearly proved, the House discharged him from further attendance: the court of King's-bench, however, thought proper to commit him, for want of sureties to keep the peace. Mr. Wilkes refused to admit the visits of the two medical men appointed by parliament; but in vindication of his own friends called in two others. His case, however does not seem to have been so dangerous as represented, since, in a few days after the recess, he set out for Paris." Adolphus.

"The principle of Mr. Wilkes's retreat was obviously fear; and indeed there seems to have been cause sufficient to frighten a more intrepid person. There was a prosecution against him in the King's-bench for the North Briton, and another for the Essay on Woman; for neither of which he could expect mercy, if a jury found him guilty. There were, besides,

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am under from the impossibility I now find of attending my duty in parliament on the 19th of this month; I have suffered very much from the tour I made here in the holidays to see my daughter; my wound is again become extremely painful, the parts are very much inflamed, and a fever attends it. I inclose a certificate of one of the king's physicians and of a surgeon of the army, gentlemen of eminence in their profession, who think it absolutely necessary for me to stay some time longer at Paris. I refer to the certificate itself for the particulars.

"The impatience I feel to justify myself to the House, from the groundless and cruel attacks made upon me, and the zeal I hope ever to retain for the vindication of the sacred rights of the Commons of Great Britain, and the privileges of parliament, both of which have been grossly violated in my person, had determined me to set out for England on Friday next, but I now find myself incapable of performing the journey: I am therefore, Sir, under the necessity of intreating you to submit my case to the House; and I doubt not from their justice that a more distant day will be appointed, when it may be in my power to attend the discussion of points, very important in themselves, and in which I am very materially concerned.

"I would not, Sir, implore this of the House, if I thought the delay could be attended with any possible inconvenience to the public; and I beg to observe that I seized the first moment, which the resolutions of parliament gave me to enter my appearance to the informations filed against me in the King's-bench. I am, with due respect and regard, Sir, &c.

"JOHN WILKES."

"Right Hon. Sir John Cust."

"Nous soussignés mèdecin consultant du roi, ci-devant mèdecin en chef de ses armées en Allemagne et en Espagne, et nous chirurgien consultant des armées, et chirurgien major du régiment des gardes François, certifions que Mons. Jean Wilkes est dans un etat que ne lui permet point, tant par raport à sa blessure qui n'est pas encore entierement cicatrisée, que par raport à la fievre qui lui est survenue d'entreprendre la route de Paris à Londres; qu'il seroit à craindre, un l'inflammation et le boursoufflement considerable arrivés depuis peu de jours, qu'il ne se format une hernie à la quelle, il ne seroit point possible de rémedier, que pour prevenir cet accident, dont il est menacé et que le mouvement violent, tel que celui d'une chaise de poste, et l'agitation de la mer ne manqueroient pas de determiner, il est absolument indispensable qu'il reste encore quelque tems à Paris. En foi de quoi nous lui avons delivré le present certificate. A Paris, 11 Janvier 1764.

"NINNIN.

"DUFOUARE."

And the House being informed, that Dr. Heberden, Mr. Hawkins, Dr. Brocklesby, and Mr. Graves, were attending at the door, according to order; they were severally called in; and, at the bar, examined.

And a motion being made, and the question put, That the further consideration of the said order of the day, for the attendance of John Wilkes, esq. in his place, to answer a charge mentioned in an order of this House of the 1st of December last, be adjourned till to-morrow morning: the House divided—Yeas, 102; Noes 239.- So it passed in the negative.

A motion was made, and the question being put, "That John Wilkes, esq. a member of this House, having been required, by the repeated orders of this House, to attend in his place, to answer the charge of being the author and publisher of the printed paper, intituled, "The North Briton, No. 45," and having been from time to time excused from his attendance upon the days appointed, on the representations made to this House of his utter inability to attend in respect of his health; and, after refusing to admit the physician and surgeon appointed by this House to observe and report the state of his health, having withdrawn himself into a foreign country, without assigning a sufficient cause; is guilty of a contempt of the authority of this House; and that this House will therefore now proceed to hear the evidence upon the matter of the said charge;" the House divided: Yeas

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the vengeance of the Lords, and the whole weight of the crown: any one of which was enough to crush an ordinary man. He had likewise the misfortune to be pre-judged; both papers having been voted libels by the parliament, before the sense of a jury had been taken: so that he was reduced to the alternative of staying and becoming a martyr, or withdrawing till the malice of his enemies was abated. He wisely chose the latter." History of the Minority, p. 255.

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275, Noes 70. So it was resolved in the affirmative.

Then another of the said Papers intituled, "The North Briton, No. 45," was produced, and delivered in at the table. And several of the persons who were ordered to attend this House this day, were severally called in;* and, at the bar, examined, in support of the said charge. And a motion was made, and the question being put, that the further hearing of evidence upon the matter of the said charge be adjourned till to-morrow morning; the House divided: Yeas 64, Noes 225. So it passed in the negative.

Then several other of the persons who were ordered to attend this House this day, and also another witness, were severally called in; and, at the bar examined, and evidence was produced, in further support of the said charge. And a motion was made, and the question being put, that the further hearing of evidence upon the matter of the said charge, be adjourned till to-morrow morning; the House divided: Yeas 57, Noes 227. So it passed in the negative.

Then another of the persons who were ordered to attend this House this day, was called in; and at the bar examined, in further support of the said charge. And the House having continued to sit till past two of the clock, on Friday morning; a motion was made, and the question being put, that the further hearing of evidence upon the matter of the said charge, be adjourned till this day, at twelve of the clock; it passed in the negative.

Then another of the persons who were ordered to attend this House this day, was called in, and also one of the aforementioned witnesses was again called

* "The names of the witnesses were, William Johnstone, bookseller; he could only prove some trivial intercourse with Mr. Wilkes, relative to the North Briton in its infantine state.—Richard Balfe, and George Kearsley (the original printer and publisher of the North Briton, Number 45) were not examined, informations being filed against both in the King's-bench. Upon the trial between Mr. Wilkes and Mr. Wood, they were excused giving any testimony, lest such evidence might tend to their own condemnation. But the letters, and other papers, seized at Kearsley's, were read.—Andrew Millar, bookseller, and Thomas Cadell, his apprentice, could only prove Mr. Wilkes having offered to treat with Mr. Millar about publishing the first number of the North Briton, which he declined.—Charles Shaw (Balfe's apprentice) could only prove the printing of the North Briton, Number 45, but he knew not where the proof sheet went.—Anne Balfe was not obliged to give evidence against her husband.—Jonathan Scott could only prove Mr. Wilkes's hand-writing.—William Richardson, printer, could only prove the publication of the first 25 numbers.—All the other witnesses (who were the printers that had worked in Mr. Wilkes's house) could speak only to the republication; and all of them, except Curry, were extremely unwilling even to do that.

"Curry then was the grand and only evidence upon which the House was to determine the authorship of Mr. Wilkes. This man did not even know Mr. Wilkes until some months after the 45th number of the North Briton had been published. He could only say, that being a workman in Mr. Wilkes's house, he was one of those who reprinted all the North Britons in volumes for Mr. Wilkes, and by that gentleman's order. He could say nothing, but what related to the republication, or rather the reprinting, of those papers. And as to the Essay on Woman, he acknowledged, that he had received money for furnishing a copy of that, which he had taken out of Mr. Wilkes's house. After several motions for adjourning, all of which were carried in the negative, the House, at length, resolved, without a division, or any other evidence, that Mr. Wilkes was guilty of writing and publishing the North Briton; and then they immediately expelled him; which was also carried without a division. To people, without doors, these proceedings appeared unaccountably strange and precipitate. Mr. Wilkes had been served with a subpœna, and he had entered his appearance to the prosecutions against him in the court of King's-bench, where the matter must, if the Attorney General pleased, be determined within a month at farthest. What need was there then of this prejudging his cause, and pre-determining his guilt, while the matter was clearly *sub judice* in Westminster-hall? A month's patience in the House of Commons could not hinder the course of justice. Why then was he put to the sad and affecting necessity of revealing his defence so near his trial? Was it merely to obviate a motion of expulsion; or was it to give the crown lawyers an opportunity of knowing and anticipating his defence upon the day of trial? or upon what principle can this rapid proceeding be justified? Surely it would have shewn a more tender regard for the liberties of the subject, and the constitutional principles of government, to have taken the sense of a jury first; and to have declined this grand attack until the court below had determined the point. It would have been more humane, and more generous. And what material difference could arise in the trivial delay of a month, at farthest, to the discussion of a question of such extraordinary magnitude? Here ended the consideration of the Royal Complaint." History of the Minority, p. 261.

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in; and, at the bar, severally examined; and evidence was produced in further support of the said charge.

Resolved, That it appears to this House, that the said John Wilkes, esq. is guilty of writing and publishing the paper intituled, "The North Briton, No. 45," which this House has voted to be a false, scandalous, and seditious libel, containing expressions of the most unexampled insolence and contumely towards his Majesty, the grossest aspersions upon both Houses of Parliament, and the most audacious defiance of the authority of the whole legislature; and most manifestly tending to alienate the affections of the people from his Majesty, to withdraw them from their obedience to the laws of the realm, and to excite them to traitorous insurrections against his Majesty's government.

Resolved, That the said John Wilkes, esq. be for his said offence, expelled this House.

Proceedings in the Commons concerning GENERAL WARRANTS *and the* SEIZURE OF PAPERS.*] The same day complaint was made to the House, of a Breach of Privilege of the House, by Robert Wood, esq., a member of the House; Philip Carteret Webb, esq., a member of the House; Robert Blackmore, James Watson, and John Money; by the imprisonment of the person of John Wilkes, esq., then a member of the House, and the seizing of his Papers in an illegal manner: and the said Messrs. Webb and Wood being in their places, the matter of the said complaint was ordered to be heard at the bar of the House on the 26th of January, at which time it was again put off to the 13th of February.

February 3. Sir W. Meredith moved, "That an humble Address be presented to his Majesty, that his Majesty will be graciously pleased to give directions that the proper officers do lay before this House, copies of the warrants of commitment and apprehension, whereby John Wilkes, esq. was apprehended, and afterwards committed to the Tower of London; and also of all informations and examinations, whereon such warrants were severally granted."

* "When parliament had done its utmost, and all its proceedings against Mr. Wilkes were finished, and when the crown, and the honour of the crown, were both satisfied and vindicated, then the consideration of the illegal proceedings of government was taken up. The matter was opened to the House upon general grounds, arising out of the complaint against Mr. Wilkes at the beginning of the session, and so purely for the honour and dignity of the House, and the rights of the subject, without the least regard to individuals, that it was, by the direction of the House, formed into a complaint of a breach of privilege, committed by Mr. Wood and Mr. Webb, and the messengers, in imprisoning Mr. Wilkes, and seizing his papers. Another motion was made to lay the warrant before the House, by which Mr. Wilkes had been apprehended. This would have led to a positive determination, as far as the opinion of one branch of the legislature can be called so, of the legality of that warrant; for the justification of the gentlemen complained of must have depended upon the validity of it. But this second motion was rejected, and the matter of complaint was ordered to be heard on the 13th of February, 1764. Conferences, in the mean time, were held by some of the then principal persons in the minority, for the management of this business, particularly at sir George Savile's, where the motions were settled, at a meeting consisting of sir Anthony Abdy, sir William Baker, Peter Burrell, esq., lord John Cavendish, John Dodd, esq., William Fitzherbert, esq., colonel Fitzroy, right hon. James Grenville, serjeant Hewitt, sir William Meredith, lord Middleton, George Onslow, esq., colonel Onslow, Robert Pratt, esq., sir George Savile, Thomas Townshend, jun. esq., hon. Thomas Walpole, and John Whyte, esquire. On the 13th of February the matter of complaint was adjourned to the 14th. On that day it was entered into; and the facts having been fully examined, it became necessary to condemn the warrant, in order to establish the breach of privilege which had been committed under it. For this reason the following general question was proposed, "That a warrant for apprehending and seizing the author, printers, and publishers, of a seditious libel, together with their papers, is not warranted by law." Yet the consideration of this question was declined, in order to discharge the complaint against Mr. Wood and Mr. Webb, previous to the examination into the legality of the warrant; upon what ground of reason, law or justice, is not easy to be conceived, there being such a connection between the warrant, and the persons complained of, that the House had determined nothing could separate them in the beginning; nothing therefore could equal the inconsistency of first discharging the order of complaint, and then going into the consideration of the legality of the warrant. The House having sat till half an hour past seven in the morning of the 16th, the question was put to adjourn to the 17th, which, though so late in the morning, and many staunch friends to the minority known to be gone home, was carried

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A motion was made, and the question was proposed, that the House do now adjourn.

Then the House was also moved, that the entry of the Complaint made to the House, upon the 20th of January last, of a breach of the privilege of this House, by Robert Wood, esq., a member of this House, Philip Carteret Webb, esq. a member of this House, Robert Blackmore, James Watson, and John Money, by the imprisonment of the person of John

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but by a small majority, only 208 against 184; which, considering the very great superiority the administration had had upon all the other divisions, was considered as a kind of victory over them; and it was universally believed, that on the 17th they would be totally defeated. However, on the 17th, the administration, by several motions, and alterations, narrowed the ground of the general question in order to bring it to the individual warrant that had issued, and to add thereto facts relative to the practice of secretaries of state and courts of law. At last the resolution adopted by the House for its question was this, "That a general warrant, for apprehending and seizing the authors, printers and publishers of a seditious and treasonable libel, together with their papers, is not warranted by law; although such warrant has been issued according to the usage of office, and has been frequently produced to; and so far as appears to this House, the validity thereof has never been debated in the court of King's-bench, but the parties thereupon have been frequently bailed by the said court." And the lawyers were the principal persons who moved and enforced all these narrowing, qualifying, and apologizing amendments.

"Much had been already said of the practice and usage of office, in order to give a colour of justification for the conduct of lord Halifax; the administration had called for papers and volumes of records, in order to justify their proceedings by that usage; and Mr. Pitt being in the House, and a very warm advocate for the question, his administration was quoted as a sanctification of such usage. It is true, that in the office-papers which were produced, there did appear to have been two such warrants issued by Mr. Pitt; one for the seizure of certain persons on board a ship going to France; the other for apprehending the count de St. Germain, a foreigner, and supposed to be a spy. These were issued in the midst of a war with France, not for libels, but as in cases of high treason; and the cause justified the proceeding. "He acknowledged they were against law; that in one of them he consulted his friend, the attorney general at that time, (now lord Camden) who told him, the warrant would be illegal, and if he issued it he must take the consequence; nevertheless, preferring the general safety in time of war, and public danger to every personal consideration, that he run the risk (as he would of his head, had that been the forfeit, upon the like motive) and did an extraordinary act, against a suspicious foreigner just come from France; that he was ready to answer it before his country, if they called him to an account; and that in his opinion, the apparent necessity of the thing, and the real exigency of the time, must always be the test, and alone vindicate, and be the safeguard of any minister, who, at a crisis, exceeds the known laws of his country."

"The duke of Newcastle's administration was quoted with more propriety. It was asserted, that his grace had issued an infinite number of these warrants. Though the fact was undeniable, yet such usage could not justify what was illegal; for usage in matters of law that are doubtful, is a good expositer of the law; but usage against law is oppression. Therefore, the duke of Newcastle was as liable to censure for his conduct as lord Halifax; and it must be acknowledged, that his grace had requested, previous to this question being settled at the private meetings, "That no personal regard to himself might influence the conduct of his nearest relation or friend; for that he should be sorry, if, from that tenderness of his friends to him, the future exercise of a power, which was of such consequence to the public, should not be prevented." But as no censure was intended against lord Halifax, the duke of Newcastle might with great safety make this declaration. When the administration found that no justification, no precedents, no usage of office, would avail; that the illegality of the warrant was strongly and positively asserted by Mr. Pitt, and many others; and that the crown lawyers did not venture to dispute it, they changed their argument, and went upon the impropriety of deciding in parliament, a question then depending in a court of judicature. It was affirmed, that in the cause then depending in the court of Common Pleas, between Mr. Wilkes (who then was not outlawed) and lord Halifax, this great question concerning the legality of the warrant must come in issue, as it was the great point upon which that cause must turn: the question being therefore a mere point of law, and clearly *sub judice*, it ought to be left to the free determination of the judges, and the sense of a jury, without an attempt to bias them by a previous resolution of parliament. Surely these gentlemen had forgot, what they themselves had so vigorously promoted and done in the beginning of the session. While the North Briton was under prosecution in the court of King's-bench, and some months previous to any determination being had in the court, they took up the consideration of the paper in parliament, "and upon the mere view of it, without enquiring into the truth of any circumstances that the author might rely upon, or the public opinion of his intent thereby, determined it to be a libel; and yet this is not only what great judges es-

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Wilkes, esq., then a member of this House, and the seizing of his Papers, in an illegal manner, might be read. And the same was read accordingly. And then the question being put, that the House do now adjourn; the House divided: Yeas 73, Noes 60. So it was resolved in the affirmative.

February 6. Sir W. Meredith moved, "That an humble Address be presented to his Majesty, that his Majesty will be graciously pleased to give directions that the proper officers do lay before this House, a copy of the warrant of apprehension, whereby John Wilkes, esq., then a member of this House, was apprehended, and the informations on which it was granted:"

An Amendment was proposed to be made to the question, by leaving out the words, "and the informations on which it was granted." And the said Amendment was agreed to by the House.

Then the main question, thus amended, being put, the House divided: Yeas 122; Noes 217. So it passed in the negative.

February 13. The House proceeded to the hearing of the matter of the Complaint made to the House upon the 20th of January last, of a Breach of Privilege, by Robert Wood, esq. a member of this House, Philip Carteret Webb, esq. a member of this House, Robert Blackmore, James Watson, and John Money, by the imprisonment of the person of John Wilkes, esq. then a member of this House, and the seizing of his papers, in an illegal manner. And Mr. Webb and Mr. Wood attending in their places; and John Money, Robert Blackmore, and James Watson attending, according to order; and being called in; several of the persons who were ordered to attend this House this day, were severally called in; and, at the bar, examined in support of the said complaint.

Then Mr. Webb and Mr. Wood were heard in their places: and John Money, Robert Blackmore, and James Watson, were also heard. Then another of the persons who was ordered to attend this House this day, was called in: and, at the bar, examined; and evidence was produced, in answer to the said complaint.

And a motion was made, and the question being put, that the further hearing of the matter of the said complaint be adjourned till to-morrow: the House divided: Yeas 31; Noes 379. So it passed in the negative.

Then John Money, Robert Blackmore, and James Watson, were again called in; and further evidence was produced, in answer to the said complaint. Ordered, That the further hearing the matter of the said complaint be adjourned till to-morrow.

February 14. The House resumed the adjourned consideration of the matter of the said complaint. And Mr. Wood and Mr. Webb attending in their places; and Mr. John Money, Mr. Robert Blackmore, and Mr. James Watson, being called in; a witness was examined; and evidence was produced; in further answer to the said complaint.

Ordered, That Mr. Barlow, clerk of the

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teem a mere point of law, but what by some is held to be a very difficult point of law. They went further; for they afterwards called for evidence, in order to find out who was the author; and it appearing to them, although by witnesses not upon oath, and some who did not know Mr. Wilkes, till several months after the fact was committed, that Mr. Wilkes was the author, they expelled him: after sitting and deliberating upon their conduct till half an hour after three in the morning. Now this last is a fact which by the constitution of this country is to be tried by a jury. Nay, the Commons came to both these resolutions, whilst the same matter was in a course of trial before a jury in the courts below." But this question of the illegality of the warrant was not in a course of determination in the courts below. It was admitted, indeed, by the lawyers in the minority, that in Mr. Wilkes's action against lord Halifax, the question might come in issue; but there was a doubt, nay, there was an almost certainty, that that action never would come to trial; privilege on the side of the secretary of state, and inability on the side of Mr. Wilkes, had hitherto prevented it, and in all probability would prevent it for ever. The fallacy of this objection being manifest, the minority went into the importance of the general question; they affirmed it to be of the utmost consequence to the liberty of the subject; the very essence of private and personal liberty depended upon it; the minds of the public were extremely agitated; and a decision was expected, for the satisfaction of the present age and the security of future times. Still the administration adhered to their principle of the impropriety of coming to any determination upon a point of law, while it was depending in the courts of justice. They moved therefore to adjourn the debate to that day four months. And at half an hour after five in the morning, of the 18th, the question to adjourn was put, and carried by 232 against 218." History of the Minority, p. 268.

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Rules in the Crown-office, do immediately attend this House.

Then several other witnesses were examined; and evidence was produced; in further answer to the said complaint.

The House was informed, that Thomas Scrope, esq. created a great disturbance in the lobby, and upon the stairs, leading to this House.

Ordered, That the said Thomas Scrope, esq. be taken into the custody of the Serjeant at Arms, attending this House.

Then further evidence was produced, and several other witnesses examined, in further answer to the said complaint; and the said witnesses being withrawn; Mr. Webb and Mr. Wood were heard in their places: and John Money, Robert Blackmore, and James Watson, were also heard; and were directed to withdraw.

A motion was made, and the question being proposed, "That a General Warrant for apprehending and seizing the authors, printers, and publishers of a seditious libel, together with their papers, is not warranted by law;" and a debate arising in the House thereupon; and it being near two of the clock on Wednesday morning; a motion was made, and the question being proposed, That the said debate be adjourned till this day, at twelve of the clock; an amendment was proposed to be made to the question last proposed, by inserting after the word "debate," these words, "and the further consideration of the matter of this complaint." And the question being put, that those words be there inserted; the House divided: Yeas 197; Noes 207. So it passed in the negative.

Then another amendment was proposed to be made to the said question, by leaving out the words, "this day at twelve of the clock," and inserting the words, "Friday morning next," instead thereof. And the question being put, that the words "this day, at twelve of the clock," stand part of the question; it passed in the negative. And the question being put, that the words, "Friday morning next," be inserted instead thereof. It was resolved in the affirmative.

A motion was made, That the complaint against Robert Wood, esq., a member of this House, for a breach of the privilege of this House, be discharged. And a motion being made, and the question being put, that the House do now adjourn; the House divided: Yeas 184; Noes 208. So it passed in the negative.

Then the motion being again made, That the complaint against Robert Wood, esq., a member of this House, for a breach of the privilege of this House, be discharged; Mr. Wood withdrew.

Ordered, That the complaint against Robert Wood, esq., a member of this House, for a breach of the privilege of this House, be discharged.

A motion being made, That the complaint against Philip Carteret Webb, esq., a member of this House, for a breach of the privilege of this House, be discharged; Mr. Webb withdrew.

Ordered, That the complaint against Philip Carteret Webb*, esq., a member of this House, for a breach of the privilege of this House, be discharged.

Ordered, That the complaint against John Money, Robert Blackmore, and James Watson, for a breach of the privilege of this House, be discharged.

February 17. The House resumed the adjourned debate, upon the question proposed upon Tuesday last, "That a General Warrant for apprehending and seizing the authors, printers, and publishers of a seditious libel, together with their papers, is not warranted by law." And an amendment was proposed to be made to the question, by inserting after the word, "seditious," the words, "and treasonable." And the said amendment was, upon the question put thereupon, agreed to by the House.

Another amendment being proposed to be made to the question, by adding at the end thereof, these words, "although such warrant hath been according to the usage of office, and hath been frequently produced to, and never condemned by, courts of justice;" an amendment was proposed to be made to the said proposed amendment, by inserting after the first "been," the word, "issued." And the said amendment was, upon the question put thereupon, agreed to by the House.

Then another Amendment was proposed to be made to the said proposed Amendment, by leaving out the words, "never condemned by courts of justice," and inserting the words, "so far as appears to this House, the validity thereof hath never been debated in the court of King's-bench; but the parties thereupon have been frequently bailed by the said court."

* For the Proceedings against Philip Carteret Webb for Perjury, see Howell's State Trials, A. D. 1764.

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And the question being put, that the words, "never condemned by courts of justice," stand part of the proposed amendment; it passed in the negative.

And the question being put, that the words, "so far as appears to this House, the validity thereof hath never been debated in the court of King's-bench; but the parties thereupon have been frequently bailed by the said court," be inserted instead thereof; it was resolved in the affirmative. Then the said amendment, so amended, was, upon the question put thereupon, agreed to by the House.

And then the main question so amended being proposed, "That a General Warrant for apprehending and seizing the authors, printers, and publishers, of a seditious and treasonable libel, together with their papers, is not warranted by law; although such warrant hath been issued according to the usage of office; and hath been frequently produced to, and, so far as appears to this House, the validity thereof hath never been debated in the court of King's-bench; but the parties thereupon have been frequently bailed by the said court;" and a debate arising in the House thereupon;

And a motion being made, and the question being put, That the said debate be adjourned till this day four months; the House divided: Yeas 232; Noes 218. So it was resolved in the affirmative.

A motion was made, and the question was proposed, That Mr. Speaker do, in the Votes, print, with the said Resolution, the numbers of the affirmative and negative.

Mr. *Pitt* being able to attend, spoke this day in favour of the motion. He began with observing, that all which the crown had desired, all which ministers had wished, was accomplished in the conviction and expulsion of Mr. Wilkes: it was now the duty of the House to do justice to the nation, to the constitution, and to the law. Ministers had refused to lay the warrant before the House, because they were conscious of its illegality. And yet these ministers, he said, who affected so much regard for liberty and the constitution, are ardently desirous of retaining for themselves, and for their successors, a power to do an illegal act. Neither the law officers of the crown, nor the minister himself, had attempted to defend the legality of this warrant. Whenever goaded upon the point, they had evaded it. He therefore did not hesitate to say, that there was not a man to be found of sufficient profligacy to defend this warrant upon the principle of legality. It was no justification, he said, that general warrants had been issued. Amongst the warrants which were laid before the House, to shew the practice of office, there were two which had been issued by himself; but they were not against libels: one was, for the seizure of a number of persons on board a ship going to France; the other for apprehending the count de St. Germain, a suspected foreigner; and both in a time of war with France. Upon issuing the latter warrant, he consulted his friend, the Attorney-General, (who was afterwards lord Camden) who told him the warrant would be illegal, and if he issued it he must take the consequences; nevertheless, preferring the general safety in time of war and public danger to every personal consideration, he ran the risk, as he would of his head, had that been the forfeit, upon the like motive, and did an extraordinary act against a suspicious foreigner just come from France, and who was concealed at different times in different houses. The real exigency of the time, and the apparent necessity of the thing, would, in his opinion, always justify a secretary of state in every extraordinary act of power: in the present case there was no necessity for a general warrant; ministers knew all the parties; the plea of necessity could not be urged: there was no pretence for it; the nation was in perfect tranquillity; the safety of the state was in no danger; the charge was, the writing and publishing a libel. What was there in this crime so heinous and terrible as to require this formidable instrument, which, like an inundation of water, bore down all the barriers and fences of happiness and security? Parliament had voted away its own privilege, and laid the personal freedom of every representative of the nation, at the mercy of his Majesty's Attorney-General. Did parliament see the extent of this surrender which they had made? That they had decided upon the unalienable rights of the people, by subjecting their representatives to a restraint of their persons, whenever the ministers or the attorney general thought proper. The extraordinary and wanton exercise of an illegal power, in this case, admits of no justification, nor even palliation. It was an indulgence of a personal resentment against a particular person: and the condemnation

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of it is evaded by a pretence that is false, is a mockery of justice, and an imposition on the House. We are told that this warrant is *pendente lite;* that it will come under judicial decision in the determinations of the court on the bills of exception; and, therefore, that parliament ought not to declare any judgment upon the subject. In answer to this, he said, that whenever the bills of exceptions came to be argued, it would be found that they turned upon other points: upon other points he repeated. He was confident in his assertion. He concluded with saying, that if the House negatived the motion, they would be the disgrace of the present age, and the reproach of posterity; who, after sacrificing their own privileges, had abandoned the liberty of the subject, upon a pretence that was wilfully founded in error, and manifestly urged for the purpose of delusion.

Sir *Fletcher Norton*, at that time Attorney General, speaking against the proposed Resolution, is said to have declared, that "He should regard a Resolution of the members of the House of Commons, no more than the oaths of so many drunken porters in Covent Garden."*

A List of the Minority, including the Tellers; to which is added, a List of the absent Members supposed to be in that Interest.

Abdy, sir Anthony.
Adams, George.
A'Court, maj.-general.
A'Court, Pierce Ashe.
Aislabie, William.
Allen, lord viscount.
Anson, Thomas.
Archer, hon. Andrew.
Armitage, sir George.
Ashburnham, Wm.
Aubin, sir John St.
Baker, sir William.
Barrington, sir John.
Barrow, Charles.
Barré, colonel.
Bathurst, Benjamin.
Beauclerk, Aubery.
Beckford, William.
Bentinck, William.
Bootle, Wilbraham.
Bolton, Crab.
Bouverie, Edward.
Brett, sir Piercy.
Bridgman, Henry.
Bridges, sir Brook.
Buller, John.
Buller, James.
Bullock, John.
Burt, William.
Burrel, Peter.
Burton, Bartholomew.
Burton, col. Richard.
Butler, John.
Byde, Plummer.
Bertie, Peregrine.
Calcraft, colonel.
Calvert, Nicholson.
Calvert, John.
Campbell, Pryse.
Campbell, Daniel.
Cavendish, lord Geo.
Cavendish, maj.g.ld.F
Cavendish, lord John
Cave, sir Thomas.
Champion, Anthony.
Chetwynd, hon. Wm.
Cholmondeley, Nath.
Cholmondeley, Thos.
Clayton, sir Kenrick.
Clayton, William.
Cocks, Charles.
Codrington, sir Wm.
Coke, Wenman.
Colebrook, sir George.
Conway,* lieut.-gen.
Cooke, George.
Cornwall, Velters.
Coventry, Thomas.
Curven, Henry.
Damer, John.
Deering, sir Edward.
Delaval, George.
Dempster, George.
Dodd, John.
Dowdswell, William.
Drake, sir Francis.
Dummer, Lee.
Elliot, Edward.
Elwel, sir John.
Featherstone, sir Matt.
Finch, Saville.
Fisher, Brice.
Fitzherbert, William.
Fitzwilliam, maj.-gen.
Fitzmaurice, William.
Fitzroy, col. Charles.
Foley, Thomas.
Forrester, Brook.
Foster, Thomas.
Fuller, Rose.
Fuller, Thomas.
Gage, lord.
Gibbons, sir John.
Gilmore, capt. sir Alex.
Glover, Richard.
Glynn, sir Richard.
Godolphin, Francis.
Grenville, rt. hon. Jas.
Grey, lord.
Griffin, major-gen. sir John Griffin.
Grosvenor, Thomas.
Grant, James.
Galway, lord.
Hanbury, Capel.
Hales, sir Thomas.
Harbord, Harbord.
Harley, hon. Thomas.
Hervey, John.
Hervey, hon. capt. W.
Hewit, serjeant.
Holt, Rowland.
Honeywood, lieut.-g.
Howard, lieut.-gen.
Howe, lord viscount.
Howe, hon. colonel.
Hunt, George.
Hussey, Richard.

* A pamphlet published at the time, entitled, "A Letter from Albemarle Street, to the Cocoa Tree," and attributed to Lord Temple, has the following reference to these expressions:

"Parliamentary Resolutions are not like the words of a *drunken porter*, say so who will. One should think England could not have bred a man, I had almost said a ———, who would talk in so ridiculous a manner: and nobody has more reason to stand in awe of parliament than such as are capable of holding a language so disrespectful to it, so derogatory to the great security of the nation. It must proceed from ignorance of the constitution; and to confute the nonsense would be supposing it is not what it really is. Lawyers, who are generally fettered with the trammels of their profession, may say, as they sometimes have said, that votes of the Commons are 'not considered as laws—' Nevertheless, (as the author of the best constitutional history of England says) 'such is their effect, that few persons are so hardy as to act directly contrary to these decisions of the Commons, since it is, in some measure, to oppose the sentiment of the people whom they represent. Besides, an action directly contrary to a vote of the House, is liable to be questioned, when least expected, and draws upon the actor the indignation of the House.' It may also be remembered, that there are not wanting instances of parliament declaring things done against liberty, heinous crimes, even in an *Attorney General*." See Almon's Biographical Anecdotes, vol. 3, p. 198.

* This was the only vote general Conway gave this session against the ministry, and for so doing he was dismissed from his employments.

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Hutchins, Thomas.
Jennings, George.
Irwin, colonel.
Knight, Thomas.
Ladbroke, sir Robert.
Lambton, maj.-gen.
Lascelles, Edwin.
Lascelles, Daniel.
Lascelles, Edward.
Lawrence, William.
Legh, Peter.
Long, sir Robert.
Lutterel, Simon.
Mawbey, Joseph.
Mellish, Joseph.
Meredith, sir Wm.
Metham, sir George.
Meynell, Hugo.
Middleton, lord visc.
Middleton, Richard.
Middlesex, lord.
Mills, Richard.
Montagu, lordCharles.
Morant, Edward.
Morgan, sir John.
Morgan, Thomas.
Morgan, Thomas jun.
Morgan, capt. Chas.
Mostyn, sir Roger.
Murray, James.
Nesbit, Arnold.
Newnham, lord.
Noel, Thomas.
Norris, John.
Ongly, Henry.
Onslow, George.
Onslow, col. George.
Page, John.
Palmer, sir Thomas.
Pelham, Thomas.
Pennant, Richard.
Penton, Henry.
Pitt, rt. hon. Wm.
Pitt, John.
Plumptree, John.
Popham, Edward.
Powell, Harcourt.
Praed, Mackworth.
Pratt, Robert.
Prescot, George.
Price, Richard.
Price, Hugh.
Price, Chase.
Proctor, sirW. Beauch.
Pye, Henry.
Plummer, William.
Rebow, Martin.
Roberts, John.
Robinson, hon. Thos.
Royston, lord.
Rushout, John.
Rolle, Dennis.
Sackville, lord Geo.
Savile, sir George.
Saunders, sir Charles.
Sandys, hon. Edwin.
Scawen, James.
Scudamore, Fitzroy.
Scudamore. Charles.
Sergison, Thomas.
Shafto, Robert.
Shelley, John.
Simpson, sir Edward.
Southwel, Edward.
Staunton, Thomas.
Stevens, Richard.
Sturt, Humphrey.
Sullivan, Lawrence.
Tempest, John.
Thomlinson, John.
Townshend, rt. hon.C.
Townshend, Charles.
Townshend, hon. Tho.
Townshend, Thomas.
Trelawney, sir Wm.
Treise, sirChristopher.
Trevannion, William.
Tudway, Clement.
Tufinel, Foster.
Tuckfield, John.
Vane, hon. Fred.
Vansittart, Arthur.
Villiers, lord.
Vincent, sir Francis.
Waller, Edmund.
Walpole, hon. Thos.
Walpole, hon. Horace.
Walpole, hon. sir Ed.
Walsingham, hon. B.
Warren, sir George.
Watson, Thomas.
West, James.
Whichcot, Thomas.
White, John.
Whitmore, maj.-gen.
Whitshed, James.
Wilkinson, Andrew.
Willy, William.
Wilson, William.
Winterton, lord.
Woodly, William.
Yonge, sir George.
Yroke, hon. Charles.
Yorke, hon. John.

ABSENT.

Offley, John.
Brudenel, George.
Cavendish, Richard.
Dennis, Peter.
Barnes, Miles.
Forrester, Cecil.
Gulston, Jos.
Heathcot, sir Gilbert.
Hewit, John.
Egerton, Samuel.
Legge, rt. hon. Hen.
Luther, John.
Long, James.
Parker, John,
Powlett, lord Harry.
Prowse, Thomas.
Ridley, Matthew.
Rushout, sir John.
Stanhope, sir William.
Tracy, Thomas.
Vernon, hon. GeorgeV.
Wright, George.
Keppel, hon. Augustus
Monson, hon. George.
Craven, hon. William.

When the Debate was over, sir John Philipps moved the House for leave to bring in a Bill to declare General Warrants and the Seizure of Papers illegal, by an act of parliament, except in certain cases, and under such limitations, as should be mentioned and described in the said act. He was supported by several in the administration. But the minority opposed it, because they thought a Bill proposed and supported by men in office, and their friends, who had been attempting to justify their conduct, would be in favour of prerogative. If a Bill be at all necessary, said they, it should be framed by those who are contending for liberty, and not those who are endeavouring to evade the dispute. The motion was therefore rejected.

As three Members of parliament each gave some account of this great Debate, they are here preserved. The first is by sir George Yonge, bart. as follows:

LETTER from Sir George Yonge, Bart. Member for Honiton, in Devonshire, to the Portreve of that Borough, relative to his Conduct in Parliament on the Question relating to General Warrants.

Sir; you desired to know from me the truth of many things which have been asserted concerning the great question, which was agitated in parliament last February. The manner in which I will now state to you the whole of that question will, I hope, justify the credit you give me. You will see by it the reasons which moved and determined me upon that occasion.

There are three things to be considered with relation to the late proceedings concerning the issuing of General Warrants:

1st, The manner of issuing and executing such warrants.

2d, How far they can be justified in point of law.

3d, The propriety of the proceedings of the House of Commons, upon the complaint made of a breach of privilege.

With regard to the first head, which I shall confine to the matter of fact, it appears, that lord Halifax, on the 25th of April, 1763, issued a warrant to apprehend the authors, printers, and publishers, of a seditious paper, intitled, "The North Briton, No. 45," to seize them, together with their papers, and bring them in safe

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custody to be examined before him. This warrant was granted not only without information upon oath, but without any information at all, (as appeared on the trial of the messengers), for it was directed to three messengers by the Secretary of State, to go to Mr. Carrington, another messenger, in order to learn from him whom they were to suspect, in what manner they should proceed, and what persons he would advise that they should take up. They were informed by Mr. Carrington, that, from the information he had received, he was of opinion that one Leach, and others, were the printers and publishers of this paper, and that he had been informed that one Mr. Wilkes, a person supposed to be the author of the North Briton, had been seen frequently in Leach's house of late, and that an old printer, whose name he did not mention to the messengers, had told him, that the said Mr. Leach was the printer of the said paper. Upon this extraordinary information, the messengers thought fit to exercise the discretionary powers, delegated to them by the Secretary of State, against Mr. Leach, entered the house, seized him and all his papers, and also all his servants, whom yet they never carried before lord Halifax, as directed by the warrant, but, after twelve hours confinement in an alehouse, discharged them. Leach was kept in confinement several days, and then released.

On the 26th of April lord Halifax issued another warrant in the same general form, whereby one Balfe, a printer, and one Kearsley, were taken into custody. Upon the information of this latter person, Mr. Wilkes was apprehended on the 30th of April, by a verbal order given to the messengers; so that Mr. Wilkes was apprehended without any warrant at all; no other but that of the 26th of April having been issued, the execution of which against Balfe and Kearsley was, or ought to be, the legal return of that warrant: and the information whereby Mr. Wilkes was apprehended being subsequent to that return, there remained properly no authority to apprehend Mr. Wilkes but the verbal order. However, under this authority, Mr. Wilkes was seized, and Mr. Wood and Mr. Webb, with others, took possession of his house, and carried away in a sack all his papers that could be found.

Upon immediate application to the Court of Common Pleas a writ of Habeas Corpus was ordered. This the Secretaries of State were soon informed of; whereupon they shifted the custody of the prisoner, and committed him to the Tower; so that the effect of that Habeas Corpus was eluded, and he was kept close prisoner, debarred the use of pen and ink, and the sight of his friends. Thus much as to the matter of fact. How far these proceedings can be justified by the laws of this country, is the next consideration.

It is universally agreed by all judges, by all the writers on the law, that a general warrant not expressing the name of the party to be apprehended, is void in law: for it is leaving it to the arbitrary discretion of a common officer to arrest persons, and search what houses he thinks fit; and the seizure of papers has frequently been condemned as illegal. However, to justify the warrants issued by lord Halifax, the practice of the secretary of state's office has been mentioned and called an usage, and Mr. Pitt's administration has been quoted to sanctify such proceedings. To this three answers may be given: 1st, That the practice is but modern, and but ill-called usage, taking its idea and its rise from the Licensing Act, and the arbitrary days of Charles 2; nor is the practice constant or uniform, for all the precedents differ. 2nd, If usage had been proved, it could not make that justifiable which is illegal; for usage in matters of law that are doubtful, is a good expositor of the law; but usage against law is oppression. 3rd, Mr. Pitt's administration affords no such precedent; two warrants only appear issued by Mr. Pitt, one for the seizure of certain persons on board a ship going to France, the other for apprehending the count de St. Germain, a foreigner, and supposed to be a spy. These were issued in the midst of a war with France, not for libels, but as in cases of high treason, and the cause justified the proceeding. In like cases secretaries of state have before this time issued general warrants. But the honour of being champions and defenders of a proceeding, which no lawyer in the kingdom dared to say was legal, seem reserved for the present invasion of our liberties. And as to the close confinement in the Tower, it will be difficult to find a lawyer that will assert, that a man, upon a bare charge of a misdemeanor, may be kept close prisoner, and disabled of the opportunity of obtaining bail, which, in case of a misdemeanor, he was entitled to.

I have shewn you, therefore, the man-

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ner of the proceeding, and, I think, the illegality of it; the propriety of the proceedings of the House of Commons upon this occasion remains to be determined.

I shall begin by observing, that the matter was first opened to the House upon general grounds, arising out of the complaint which had been introduced against Mr. Wilkes, in the beginning, and so purely for the honour and dignity of the House, and the rights of the subject, without the least regard to individuals, that it was by the direction of the House, formed into a complaint against Mr. Wood and Mr. Webb, and the messengers. In this manner it was received and examined into by the House. And here the justification of the gentlemen, against whom the complaint was formed, by order of the House, as a means to come at the legality of the warrant issued by lord Halifax, certainly depended upon a proof of the validity of it; and Messieurs Webb and Wood, &c. could only be guilty, if the warrant was illegal. For this reason, it was necessary to propose the following general question: "That a general warrant for apprehending and seizing the author, printers, and publishers, of a seditious libel, together with their papers, is not warranted by law." Yet when this question was proposed, (the matter of fact having gone through) the consideration of it was declined, in order to discharge the complaint against Webb, Wood, &c. previous to the examination into the legality of the warrant; upon what ground of reason, law, or justice, is not easy to be conceived, there being such a connection between the general warrant, and the persons complained of, that the House had determined, that nothing could separate them in the beginning; nothing, therefore, could equal the inconsistency, first to discharge the order of complaint, and then, the next day, to go into the consideration of the legality of the warrant. However, having done this, the question was then altered, by adding these words, "Although such warrants hath been issued according to the practice of office, and hath frequently been produced to the court of King's-bench, and as far as appears to this House, the validity thereof hath never been debated, but the parties have thereupon been bailed by the court." The question thus altered, was then considered. The illegality of the warrant was asserted, and not disputed; yet it was resolved to put off coming to any resolution upon this question for four months, because it was improper to give any opinion upon this matter, being a point of law that was then depending in the courts of justice, where the question was *sub judice*.

To this a full answer may be given; 1st, It has been the custom, and a matter of attention in parliament, to declare upon these points. To prove this, many precedents of various kinds might be produced. I shall content myself with these: when the crown was endeavouring to introduce a general excise, and the troubles in England, occasioned thereby, were quickly followed by the Scotch invasion, two English peers, the earl of Warwick, and lord Brooke, being suspected of holding correspondence with the Scotch rebels, were, in time of privilege, apprehended by warrants from the secretaries of state, their houses entered and searched, their papers seized, and their pockets rifled. This produced a complaint in November, 1640, against the secretaries of state who issued, and the clerk of the council who executed the warrants. On this occasion, though the case was not a case of privilege, yet the warrant being general, and to seize all papers, was declared illegal, and the illegality of the proceeding being against two members of parliament, was declared a breach of privilege. Satisfaction was then made to the two injured lords, and the clerk of the council first brought on his knees at the bar of the House of Lords, and afterwards committed to prison. Again in 1680, sir William Scroggs, lord chief justice of the King's-bench, issued general warrants, to seize such seditious books, libels, and pamphlets, as the messengers of the press should be informed of. Upon this the House of Commons resolved, that the warrants were arbitrary and illegal, and impeached the judge. Yet this case, though so highly resented by the House, is plainly not so flagrant and offensive as the warrants issued by lord Halifax. In 1692, a complaint was made by lord Marlborough, and others, of a breach of privilege, having been committed to the Tower, without information on oath, and of a discharge of bail being refused, in time of privilege. On this occasion a Bill was proposed to indemnify secretaries of state for such commitments in treasonable cases, and to limit their powers by law; but the House of Commons refused to give any sanction, any definition to such powers, even by limiting them; but resolved, that the powers being illegal,

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the secretaries of state, exercising them at their peril, should be justified only by the case.

Next, as to the trials depending in the courts below, the question of the warrants has not yet come in issue before the court. In one trial only brought by Leach against the messengers, they defended themselves under the warrant: the judge was of opinion, that the warrant was illegal; and the jury found, that though the warrant had been legal, the messengers had not proved their justification; so that the fact being found against them, as well as the law, no exception could lie as to the warrant. Mr. Wilkes's action against lord Halifax may bring the matter in question; but privilege on the side of the Secretary of State, and inability on the side of Mr. Wilkes, have hitherto prevented the trial of this, and may for ever prevent bringing the matter before the court, so as to receive a judicial determination. It can therefore scarcely be alledged, that the matter is depending and *sub judice*. But surely, if it were, the recollection of the enquiry into Mr. Wilkes's case, in the beginning of the session, of the parliamentary resolution, sentence, and punishment of him, when the matter was indisputably depending, and *sub judice*, (an information being at the time filed against him in the court of King's-bench, without a possibility in Mr. Wilkes to prevent the matter from coming to trial) must be sufficient to determine the propriety of our coming to a resolution upon this occasion, although suits were depending in the courts of law.

It appears then, that a Secretary of State arming his messengers with extraordinary jurisdiction and powers, on the occasion of a libel, directs them, having no information himself, to get information, (from Mr. Carrington if they could) and to exercise these powers in such manner, and against such persons as their informer should think fit to advise. By means of this power, which regal authority itself could scarcely delegate, (which I might have felt, and might have reached you, however distant or innocent) several of his Majesty's innocent subjects were oppressed; till at length the whole weight of this power, grown impatient, and disdaining the trouble of a second Warrant, fell, by a verbal order, on Mr. Wilkes, a member of parliament. To which may be added, that unprecedented and presumptuous attempt, by which the operation of the Habeas Corpus Act was evaded, and that great bulwark of our liberties rendered of no effect. In such a case, and in the course of such an enquiry, originally introduced by the crown, the House, finding that such and such proceedings had happened, I could not consent; I am sure you would have thought me wanting to my country and to my duty, if I had approved of passing these things over in silence, without endeavouring to prevent them for the future, and without coming to a seasonable parliamentary resolution upon the question, leaving nothing to posterity, in the votes of the House, but what furnishes, from the nature of it, the only precedent, perhaps, upon record concerning this matter, in favour, as it certainly is at present, of the validity of such warrants. I have given you now, I hope, a satisfactory account of this great matter. I am, Sir, your most obedient servant,

GEORGE YONGE.

London, April 24, 1764.

The next Account of the Debate on General Warrants was written by the late Right Hon. Charles Townshend:*

The same public, which has seen the 220 calumniated members of the late minority charged with so many things, which they never did, and with designs, which they never formed, should now be fully and fairly informed of their actual conduct, and their real views, in moving the question of the legality of the warrants.

Let those then learn, if there be any yet sensible to the feelings, and open to the call of national liberty, that it appearing, in the course of the proceedings against Mr. Wilkes, that a subject had been taken into custody by a General Warrant of apprehension, issued by lord Halifax, his papers seized, and his person kept in closest custody, upon the charge of a seditious libel, the public instantly took the alarm, and the illegality of such Warrants, and such custody, in such an offence, became universally the topic of discourse, and ground of apprehension and complaint. When therefore the proceedings against Mr. Wilkes were finished, when the honour of the crown and the dignity of parliament, traduced and injured by the licentious paper complained of, were both vindicated and satisfied, and

* See Almon's Biographical Anecdotes, vol. 1, p. 78.

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not till after the expulsion; two gentlemen of distinguished worth, talents and consequence in their country, stepped forth; expressed their opinion of the illegality of the proceedings of lord Halifax, and took that method, which to them seemed the best, of bringing the great question, which had so much interested the minds of all ranks of men, and upon which, they alleged, they thought the essence of private and personal liberty depended, to an amicable debate and candid discussion, for the satisfaction of this age, and, as they trusted, for the security of future times.

The House adopted the idea; the administration acquiesced; a day was named; the ministry called for various papers, and volumes of records; and when the hour of debate came on, sir William Meredith moved the following question: 'That a General Warrant for apprehending and seizing the authors, printers and publishers of a seditious libel, together with their papers, is not warranted by law.'

In the debate, neither the minister himself, nor the Attorney General defended the legality of the warrant. The marquis of Granby, and many others who voted for adjourning the debate, expressly declared their detestation of the practice, and their sense of the necessity of preventing a measure so dangerous to liberty; and the whole defence of that day consisted in arguing upon the impropriety of deciding in parliament, a question then depending in a court of judicature. They, who maintained the propriety and necessity of the motion, endeavoured to shew the fallacy of this reasoning, and dwelt upon the importance of the question, the violence of the proceeding, the power of parliament exercised in similar cases, and the reproach of leaving the liberty of the subject, in a case of such notoriety, suspended by a court of law, upon the pretence of bills of exceptions, which, when examined, would be found to turn upon other points, and where the decision, in this matter of universal interest, might be long kept in suspence, at the will even of the very party accused. Upon a motion being made for adjourning the debate for four months, the numbers were found to be 234 for the question and 220 against it; by which this great constitutional question, perhaps the most important that ever animated the spirit of a free people, has been put, as it is now phrased, into a due course of trial at law; in consequence of which candid reference every method has been taken to delay the suit and to avoid decision. Thus this great question took its rise, thus the minority moved it, the ministry avoided it, and the House referred it.

The following Account was ascribed to Sir William Meredith, Bart.*

It may not be improper to bring our attention to the ground on which the resolution, that was the subject of debate last session, and is still the great object of discussion, was first moved.

Mr. Wilkes, then a member of parliament, complained of a breach of privilege, in the violent and unlawful manner in which his house had been broke open, his person and papers seized; but being expelled, before his complaint was heard, it could not be prosecuted in his own name and person; but a violation of the privilege of parliament, being an offence against parliament itself, not confined to the person on whom it is committed, though it ceased to be the cause of Mr. Wilkes, it continued to be the cause of the House of Commons; as such, the complaint was moved; as such the House received it.

In contending for the privilege of parliament, the writer desires, that he may be understood to mean, not that insolent abuse of privilege which has made its name odious, and its existence intolerable, by which members of parliament have usurped a power of making themselves judges of their own causes, and avengers of their own quarrels; by which the course of law and justice have been obstructed, just debts withheld from many an unhappy creditor, and property detained from its true inheritor.

He begs leave to mark out a distinction between the privilege and prerogative of parliament; defining the one to be the exercise of a tyrannous and oppressive jurisdiction over the rest of the subjects: the other to consist in that of protection, which secures the representatives of the people from the power of the crown. On keeping this privilege sacred and inviolate, the freedom of parliament, and of consequence the being of our constitution, depends.

By a late Resolution of both Houses it was declared, 'that there is no privilege in case of a seditious libel.' This resolution subjects a member of parliament to the

* See Almon's Biographical Anecdotes, vol. 1, p. 80.

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same process of law that every other subject is liable to, in the case of a libel; but if a member of parliament for writing a libel has been treated in a manner that the law does not warrant, there still must be a breach of privilege. Wherever the law has been violated in the person of a member of parliament, privilege has been violated also. King Charles I, accused five members of parliament of high treason; and because there is no privilege in the case of treason, he thought he had a right to seize upon their persons; seal up their papers, and use them as traitors. But without a legal and well-grounded charge of treason, the House would not submit to the seizure of the persons and papers of their members; they voted, therefore, before the king came in person to demand them, 'the sealing up of the latter, and the attempt to seize the former, an high breach of privilege.'

I shall not compare Mr. Wilkes himself to any of those great patriots; yet so far their cases are alike, that the charge of treason was as merely fictious in one instance as in the other.

It was thought necessary, therefore, to form the resolution in the shape that it appeared on two accounts: in the first place, it was proper to declare the illegality of the manner of proceeding against Mr. Wilkes, there being no privilege as to the matter of a libel: and their second care was, 'that in asserting the privilege of parliament, they might provide for the liberty of the subject in general.'

In pursuance of these principles the Resolution was thus moved by sir William Meredith, and seconded by sir George Savile. 'That a general warrant for apprehending and seizing the authors, printers and publishers, of a seditious libel, together with their papers, is not warranted by law.' This was moved as leading to another consequence to it: 'that such warrant, if executed, is a violation of the rights of the subject; and in case of a member of this House, is a breach of the privilege of this House.'

The fate of the former question prevented the latter from being formally moved; but so much was the House apprised and possessed of the two resolutions as connected and interwoven together, that, although separated in fact, it was as absurd to separate them in idea and in argument, as to take part of a sentence, and argue as upon the whole, when the whole together bears a sense quite different from a part.

Having stated the Resolution as it was first moved, it now becomes me to describe it with the Amendments (which I rather call additions), which being, I must think unfortunately, adopted by men of great authority, were by common agreement of parties made a part of the resolution: 'That a General Warrant for apprehending and seizing the authors, printers, and publishers, of a seditious [and treasonable] libel, together with their papers, is not warranted by law.' [Although such warrant has been issued according to the usage of office, and hath been frequently produced to, and so far as appears to this House, the validity thereof hath never been debated in the court of King's-bench; but the parties thereupon have frequently been bailed by the said court.]

At first one is at a loss to guess for what end this long paragraph was added to the question; but the defender of the minority informs us, 'that the circumstance of admitting to bail, persons apprehended under such warrants is of such importance to the question of the legality of the warrants, that, in the opinion of an old and experienced lawyer, who will ever be esteemed an honour to the profession, it implies no less than an imputation of perjury to have supposed such practice to have prevailed in the court of King's-bench, unless the legality of the warrants had at the same time been acknowledged by the court.'

I do not know who the ancient lawyer is whom the writer speaks of, but, with deference to his character and age, he seems to have forgotten (if he ever knew) the practice of the courts, in which questions of this sort usually are agitated: for when a prisoner is brought before them in order to be bailed, the court will remand or bail, according to their ideas of the offence named in the warrant of commitment, without officiously scrutinizing either the form of the warrant, or the authority by which it is issued. When Mr. Wilkes was brought by Habeas Corpus before the court of Common Pleas, he was not discharged on account of the illegality of the warrant: the warrant was not then before the court: but when he tried his action for the false imprisonment, then the legality of the warrant was debated; then was its illegality declared. If then the purpose of this part of the amendment was to establish an opinion of the legality of the warrant, it has failed to answer

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even that bad purpose. For surely it can answer no good purpose to justify such a warrant in any case but treason.

The other addition of the word [treasonable] was made, it is given out, in order to give the public a true idea of the case upon which the question was agitated: for the warrant of lord Halifax was not for a seditious, but for a seditious and treasonable libel. But how does the imputation of treason give a true idea of a case in which, in fact, there was no treason? A libel is one crime, treason is another. When once a writing becomes treason, it ceases to be a libel—it is treason. Mr. Wilkes was tried for being the author and publisher of a libel: he was convicted of a libel, not of treason. Had he committed treason, one cannot suppose there would have been a failure of justice in prosecuting him to the extent of his crime. The North Briton, however, was described in the warrant to be a seditious and treasonable libel. But is an epithet inserted in a warrant to alter the nature of a crime? God forbid! at that rate an unhappy victim might be judged—not after the nature of his crime, but according to the number and weight of accusations with which an Attorney General may be pleased to load him.

I had almost forgot the Bill—proposed by sir J. Philipps to damn the minority all at once in the opinions of mankind, and to make us fall in love with the administration. 'When' (say the friends of the minister) 'did a chancellor of the exchequer and an administration intend an act so essential to the existence of liberty?'

But let me ask these champions for liberty, the chancellor of the exchequer, and the administration, if they had intended to pass the Bill, why did they reject the Resolution which was the best foundation for the Bill? If they were in earnest about it, how came it not to succeed?—A minority reject a Bill that the majority really intend! 'Tis an errant bull.

But do they really talk such a language of themselves, that they are unable to go through with a proposition that they think right, unless the minority will help them out!—That the minority gave no countenance to the sham offer of this foolish Bill, is true: that the rejecting of it lies wholly at their door is false.

Sir J. Philipps, in a very thin House, (the minister present, but not attended like a minister who has a point to carry) moved for leave to bring in a Bill to regulate the secretary of state's office. Who first opposed and raised the general disgust against this Bill? Not one of the minority, but a noble person, whose high rank and distinction do the ministry great honour, and on whose abilities they greatly rely. Some of the minority might perhaps say, "It was foreign to the original intent of their resolution, which was to vindicate the privilege of the House, and that was not to be done by a Bill: that they wished to put an end to an abusive exercise of power, in a case wherein no such power was wanted; but not to interfere with any other power of the secretary of state's office: they knew the absurdity of limiting its necessary power by any rules of law: they saw the danger of giving the sanction of law to powers that are never to be endured, but in cases of exigency; in which they are and ever will be justified." But so far was the minority from putting even a negative upon this Bill, that most of them went away with a notion it was to come in. They were surprised when they heard sir J. Philipps had withdrawn his motion.

Complaint of a Book intituled "Droit le Roi."] Feb. 24. Complaint having been made in the Lords of the publication of a libel, intitled 'Droit le Roi,' a message from the Lords was this day delivered to the Commons, desiring a conference, and a committee was appointed to manage the same; who having attended the Lords, returned, and lord Strange acquainted the House, that the Lords having taken into consideration a book, intitled, 'Droit le Roi; or a Digest of the Rights and Prerogatives of the Imperial Crown of Great Britain,' had come to the following Resolutions.

"Resolved, by the Lords spiritual and temporal, in parliament assembled, that the book, intitled, 'Droit le Roi; or a Digest of the Rights and Prerogatives of the Imperial Crown of Great Britain,' is a false, malicious, and traitorous libel, inconsistent with the principles of the Revolution, to which we owe the present happy establishment, and an audacious insult upon his Majesty, whose paternal care has been so early and so effectually shewn to the religion, laws, and liberties of his people; tending to subvert the fundamental laws and liberties of these kingdoms, and to introduce an illegal and arbitrary power."

"Resolved, by the Lords spiritual and

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temporal, in parliament assembled, that one of the said printed books be burnt, by the hands of the common hangman, in the New Palace Yard, Westminster, on Saturday the 25th of this instant, February, at one of the clock in the afternoon; and that another of the said printed books be burnt, by the hands of the common hangman, before the Royal Exchange in London, on Monday the 27th instant, at the same hour; and that the sheriffs of London and Middlesex do attend at the said times and places respectively, and cause the same to be burnt there accordingly."

This Report being read, and several parts of the said book being also read, and the first of the said Resolutions being read a second time, the House resolved, *nem. con.* to agree with the Lords in the said Resolutions.

Supplies for the Service of the Year 1764.] The following are the Supplies granted during this session for the Service of the Year 1764.

	£.	s.	d.
DECEMBER 5, 1763.			
That there be granted to his Majesty, for the marriage portion of her royal highness the princess Augusta, his Majesty's sister	80,000	0	0
That 16,000 men be employed for the sea service, for 1764, including 4,287 marines.			
That a sum not exceeding 4*l.* per man per month be allowed for maintaining them for 13 months, including ordnance for sea service	832,000	0	0
	912,000	0	0
DECEMBER 6.			
That a number of land forces, including 2,739 invalids, amounting to 17,532 effective men, commission and non-commission officers included, be employed for 1764.			
For defraying the charge of the said number of men, for guards, garrisons, and other his Majesty's land forces in Great Britain, Guernsey and Jersey, for 1764	617,704	17	10½
For maintaining his Majesty's forces and garrisons in the plantations, including those in garrison at Minorca and Gibraltar, and for provisions for the garrisons of Nova Scotia, Newfoundland, Gibraltar, and Quebec, for 1764	372,774	6	4¼
For the pay of the general, and general staff officers, in Great Britain, for 1764	11,322	7	3
Upon account, for the reduced officers of his Majesty's land forces and marines for 1764	30,188	18	0
Upon account, for the reduced officers of his Majesty's land forces, reduced and disbanded in the year 1763, and such as are to be reduced and disbanded in the year 1764	125,455	13	0
For defraying the charge for allowances to the several officers and private gentlemen of the two troops of horse guards, and regiment of horse, reduced, and to the superannuated gentlemen of the four troops of horse guards for 1764	2,605	15	0
To enable his Majesty to defray the charge of the subsidies due to the duke of Brunswick, pursuant to treaties, for 1764	43,901	3	7½
For the ordinary of the navy, including half-pay to sea and marine officers, for 1764	398,568	11	9
For carrying on the building of four houses for the officers of the hospital lately erected at Plymouth	3,000	0	0
Upon account, to be applied by the commissioners or governors of Greenwich hospital, for the support and relief of seamen worn out and become decrepit in the service of their country, who shall not be provided for within the hospital	10,000	0	0
For the charge of the office of ordnance, for land service for 1764	173,080	8	6
For defraying the expence of services performed by the said office, and not provided for by parliament, in 1763	52,359	8	1
	1,840,961	9	6½
JANUARY 19, 1764.			
Towards the buildings, rebuildings, and repairs of his Majesty's ships for 1764	200,000	0	0
JANUARY 27.			
That provision be made for enabling his Majesty to satisfy all such bills, payable in course, of the navy and victualling offices, and for transports,			

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made out on or before the 31st Dec. 1762, as were not converted into annuities, after the rate of 4*l.* per cent. per ann. in pursuance of an act made in the last session of parliament, amounting to	179,229	6	6
Towards enabling the trustees of the British Museum, to carry on the execution of the trust reposed in them by parliament	2,000	0	0
	181,229	6	6

FEBRUARY 2.

Towards enabling the commissioners for putting in execution an act made in the 2nd year of his Majesty's reign, intitled, 'An Act for paving, &c. the streets of Westminster,' &c. more effectually to perform the trusts reposed in them	10,000	0	0

FEBRUARY 6.

For paying off and discharging the exchequer bills made out, by virtue of an act passed last session, intitled, 'An Act for raising a certain sum of money by loans or exchequer bills, for 1763, and for further appropriating,' &c. and charged upon the first aids or supplies to be granted in this session	1,800,000	0	0

MARCH 1.

To replace to the sinking fund the like sum issued thereout, for the half year's payment due the 29th Sept. 1763, on the annuities after the rate of 4*l.* per cent. per ann. granted in respect of certain navy, victualling, and transport bills, and ordnance debentures, delivered in and cancelled, pursuant to an act made in the last session	69,671	1	2
To replace to the sinking fund the like sum paid out of the same, to make good the deficiency on the 5th of July, 1763, of the several rates and duties upon offices and pensions, and upon houses, and upon windows or lights, which were made a fund by an act of the 31st of the reign of his late majesty, for paying annuities to the Bank of England, in respect of 5 millions borrowed towards the supply of 1758	41,223	1	6
To replace to the sinking fund the like sum paid out of the same, to make good the deficiency on the 10th of Oct. 1763, of the several additional duties upon wines imported into this kingdom, and certain duties upon all cyder and perry, which were made a fund, by an act of the last session, for paying annuities, in respect of 3,500,000*l.* borrowed towards the supply of 1763	86,699	15	4½
To make good to his Majesty the like sum, which has been issued, by his Majesty's orders, in pursuance of the addresses of this House	7,350	0	0
For defraying the extraordinary expences of his Majesty's land forces, and other services, incurred between the 20th of Feb. 1763, and the 25th of Dec. following, and not provided for by parliament	823,876	12	2½
(Out of the monies or savings remaining of the grant in last session, for pay of the troops of the duke of Brunswick, and for subsidies, and of the grants in several former sessions, for defraying the charge of five battalions, serving in the late army in Germany, with a corps of artillery) towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred from the 20th of Feb. 1763, to the 25th of Dec. following, and not provided for by parliament	102,469	19	3,
(Out of certain savings of public monies, and out of monies arisen by the sale of his Majesty's stores in Germany and Portugal, which have been paid to the paymaster general of his Majesty's land forces) towards defraying the extraordinary expences of his Majesty's land forces, and other services, incurred from the 20th of February, 1763, to the 25th of Dec. following, and not provided for by parliament	61,088	4	0
Upon account, towards defraying the charge of out-pensioners of Chelsea hospital, for 1764	103,794	2	0
To make good a deficiency in the sum voted last session, upon account, towards defraying the charge of out-pensioners of Chelsea hospital for 1763	18,331	17	11
For the paying of pensions to the widows of such reduced officers of his Majesty's land forces and marines, as died upon the establishment of half-pay in Great Britain, and who were married to them before the 25th Dec. 1716, for 1764	1,696	0	0
Upon account, for maintaining and supporting the civil establishment of Nova Scotia, for 1764	5,703	14	11
Upon account, for defraying the charges of the civil establishment of Georgia, and other incidental expences attending the same, from the 24th June, 1763, to the 24th June, 1764	4,031	8	8

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Upon account, for defraying the charges of the civil establishment of East Florida, and other incidental expences attending the same, from the 24th June 1763, to the 24th June, 1764	5,700	0	0
Upon account, for defraying the charges of the civil establishment of West Florida, and other incidental expences attending the same, from 24th June 1763, to 24th June 1764	5,700	0	0
Upon account, for defraying the expence attending general surveys of his Majesty's dominions in North America, for 1764	1,318	9	0
To be applied towards encouraging and enabling John Blake, esq., further to carry into execution the plan concerted by him, for the better supplying the cities of London and Westminster with fish at moderate rates	2,500	0	0
	1,291,654	6	1½

March 13.

Towards paying off and discharging the debt of the navy	650,000	0	0
To make good the deficiency of the grants for the service of 1763	129,489	0	3
	779,489	0	3

March 19.

For paying a bounty, for 1764, of 2*s.* 6*d.* per day to 15 chaplains, and 2*s.* per day to 15 more chaplains, who have served longest on board his Majesty's ships of war, provided it appears, by the books of the said ships, that they have been actually borne and mustered thereon, for the space of four years, during the late war with France and Spain; and provided likewise, that such chaplains do not enjoy the benefit of some ecclesiastical living, or preferment, from the crown, or otherwise, of the present annual value of 50*l.*	1,231	17	6

March 22.

To enable the commissioners appointed by virtue of an act made in the second year of the present reign, intitled, 'An Act for vesting certain lands,' &c. to make compensation to the several owners and proprietors of such lands, &c. in the counties of Kent, Sussex, and Southampton, as have been purchased for the purposes mentioned in the said act, and for damages done to the lands adjacent	545	15	0
Upon account for defraying the charge of the pay and clothing of the militia, for one year, beginning 25th March, 1764	80,000	0	0
	80,545	15	0

April 2.

To make good the interest of the several principal sums to be paid in pursuance of the said 'Act for vesting certain lands,' &c. to the 24th of June 1764	103	13	9½

April 5.

Upon account, towards enabling the governors and guardians of the Foundling hospital, to maintain and educate such children, as were received into the said hospital, on, or before the 25th March, 1760, from 31st Dec. 1763 exclusive, to 31st Dec. 1764, inclusive	38,347	10	0
To be employed in maintaining and supporting the British forts and settlements on the coast of Africa	20,000	0	0
To enable his Majesty to make good to Samuel Touchet of London, merchant, all the expence he has incurred in fitting out several vessels employed in the late successful expedition for the reduction of the French forts and settlements in the river Senegal, and to satisfy to him all claims and demands whatsoever, on the commissioners of his Majesty's navy, or on any officer, or officers, employed in the said expedition, for such of the said vessels as were lost, or taken into his Majesty's service	7,000	0	0
	65,347	10	0

April 7.

Upon account, towards discharging such unsatisfied claims and demands for expences incurred during the late war in Germany, as appear to be due by the reports of the commissioners appointed by his Majesty, for examining and stating such claims and demands	329,093	17	6
That the sum of 170 906*l.* 2*s.* 3*d.* arising from certain savings made upon the non-effective accounts of several regiments and reserved in the office of the paymaster general, be granted to his Majesty, upon account, towards discharging such unsatisfied claims and demands for expences, in-			

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curred during the late war in Germany, as appear to be due by the reports of the said commissioners	170,906	2	8
On account, towards assisting his Majesty to grant a reasonable succour in money to the landgrave of Hesse Cassel, pursuant to treaty	50,000	0	0
	550,000	0	0
Total of the Supplies granted this Session	7,712,562	18	7½

WAYS AND MEANS FOR THE YEAR 1764.] The following are the Resolutions of the Committee of Ways and Means during this Session:

Dec. 8, 1763. 1. That the duties on malt, &c. be continued to the 24th June, 1765, 750,000*l.*

2. That a land tax of 4*s.* in the pound be raised, in the usual manner, for one year from the 25th March 1764, 2,037,854*l.* 19*s.* 11*d.*

Feb. 6, 1764. That all persons interested in, or entitled unto, such of the bills payable in course of the navy or victualling offices, or for transports, made out on or before the 31st of Dec. 1762, as have not been converted into annuities, after the rate of 4*l.* per cent. per ann. in pursuance of an act of the last session of parliament, who shall, on or before the 1st of March next, carry the same (after having had the interest, due thereupon to the 25th March, 1763, inclusive, computed and marked upon the said bills, at the navy or victualling office respectively) to the treasurer of his Majesty's navy, to be marked and certified, by him or his paymaster, to the governor and company of the bank of England, shall be entitled unto, and have an annuity, transferable at the bank of England, for the principal and interest due on the said bills, after the rate of 4*l.* per cent. per ann. commencing from the said 25th March 1763, in lieu of all other interest; until redeemed by parliament, the said annuities to be charged upon the sinking fund, and the sums which shall be issued out of the sinking fund, for payment of the said annuities, to be, from time to time, replaced out of the next aids to be granted in parliament.

Feb. 9. That the proposal of the Bank, for advancing the sum of one million on exchequer bills; and for paying the sum of 110,000*l.* into the exchequer, upon such terms and conditions as are therein mentioned, be accepted, 1,110,000*l.*

Feb. 21. 1. That the act 9 Geo. 2, cap. 37, is near expiring, and fit to be continued. 2. That the act of 4 Geo. 2, cap. 29, is near expiring, and fit to be continued. 3. That so much of an act of 8 Geo. 1, cap. 12, as relates to the importation of wood and timber, and of the goods commonly called lumber, therein particularly enumerated, from any of his Majesty's plantations or colonies in America, free from all customs and impositions whatsoever, is near expiring and fit to be continued.

March 10. 1. That a duty of 2*l.* 19*s.* 9*d.* per cwt. avoirdupois, be laid upon all foreign coffee, imported from any place (except from Great Britain) into the British colonies and plantations in America.

2. That a duty of 6*d.* per pound weight, be laid upon all foreign indico, imported into the said colonies and plantations.

3. That a duty of 7*l.* per ton, be laid upon all wine of the growth of the Madeiras, or of any other island or place, lawfully imported from the respective place of the growth of such wine, into the said colonies and plantations.

4. That a duty of 10*s.* per ton, be laid upon all Portugal, Spanish, or any other wine (except French wine) imported from Great Britain, into the said colonies and plantations.

5. That a duty of 2*s.* per pound weight, be laid upon all wrought silks, Bengals, and stuffs mixed with silk or herba, of the manufacture of Persia, China, or East-India, imported from Great Britain, into the said colonies and plantations.

6. That a duty of 2*s.* 6*d.* per piece, be laid upon all callicoes, painted, dyed, printed or stained, in Persia, China or East-India, imported from Great Britain into the said colonies and plantations.

7. That a duty of 3*s.* per piece, be laid upon all foreign linen cloth, called cambric, and upon all French lawns imported from Great Britain, into the said colonies and plantations.

8. That a duty of 7*s.* per cwt. be laid upon all coffee, stripped in any British colony or plantation in America, being the place of the growth thereof, in order to be exported or conveyed to any other place, except to Great Britain.

9. That a duty of one half-penny per

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pound weight be laid upon all pimento shipped in any British colony or plantation in America, being the place of the growth thereof, in order to be exported or conveyed to any other place except to Great Britain.

10. That an act, made in the 6th Geo. 2, cap. 13, be continued until the 30th Sept. 1764.

11. That the said act be, with amendments, made perpetual, from the 29th Sept. 1764.

12. That, from and after the said 29th Sept. 1764, in lieu of the duty granted by the said act upon molasses and syrups, a duty of 3*d.* per gallon be laid upon all molasses and syrups of the growth, product, or manufacture, of any foreign American colony or plantation imported into the British colonies and plantations in America.

13. That the produce of all the said duties, and also of the duties which shall from and after the said 29th Sept. 1764 be raised, by virtue of the said act, made in the 6th of his late majesty, be paid into the receipt of his Majesty's exchequer, and there reserved, to be from time to time disposed of by parliament, towards defraying the necessary expences of defending, protecting, and securing, the British colonies and plantations in America.

14. *That towards further defraying the said expences, it may be proper to charge certain Stamp duties in the said colonies and plantations.**

15. That there be not any drawback allowed of any part of the rate or duty commonly called the old subsidy upon any foreign goods (except wines) of the growth, production, or manufacture of Europe or the East Indies, exported from this kingdom, to the British colonies and plantations in America.

16. That there be not any drawback allowed of any part of any rate or duty upon any white callicoes, or foreign linens, exported from this kingdom, to the British colonies and plantations in America.

17. That the duties imposed in the British colonies and plantations in America, by an act made in the 25th year of the reign of king Charles the 2nd, intitled, An Act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trade, be declared to be sterling money.

18. That the importation of rum and spirits, of the produce or manufacture of any foreign American colony or plantation, into the British colonies and plantations in America, be prohibited.

19. That the annuities, granted anno 1761, for a certain term of 99 years, from the 5th Jan. 1761, transferable at the bank of England, be, from the 5th Jan. 1764, with the consent of the several proprietors, added to, and made a joint stock with, the annuities which were granted anno 1762, for a certain term of 98 years, from the 5th of Jan. 1762, transferable at the bank of England; and that the charges

* "This was an independent, substantive Resolution, followed by nothing; and yet was a resolution not only of extreme magnitude, but of the most general and highest legal nature, involving in it a decision of the first and most fundamental principles of liberty, property, and government; and was also well worthy, as to the temporary policy of it, the most serious of all consideration. This was resolved too, if I am informed right, at the close of the night, and at the rising of the House: so that every body must have taken it as a clear thing, that they could at any time come to a resolution upon any general point of law, whenever they should see it expedient so to do." Letter on Libels and Warrants, p. 151, Edit. 1771.

"The ministry deemed it necessary this year to contemplate America as a source of future revenue. A series of Resolutions was brought into the House for regulating the trade and imposing duties on certain articles of American commerce: they formed the basis of an Act, which afterwards passed the legislature, and directed that the new duties should be paid in specie into the English exchequer. These Resolutions were accompanied with one for introducing a Stamp Duty into America; but the minister withdrew it for the present, in order to allow time for the colonists to petition against it, when brought forward in another session.

"While the yell of Indian carnage was yet in their ears, and the smoke of their ruined habitations before their eyes, the rage and despair of the Americans were further inflamed by the arrival of the British Resolutions for imposing taxes. A more unfavourable moment could not have been selected. The unaccommodating regulations on trade, gave no hope of compromise or evasion of the new duties. The Americans perceiving in these Resolutions the first appearance of a general and extensive plan of taxation, the limits of which being concealed from their sight, were magnified to their apprehension, determined not to wait for the gradual exposure of the plan to combat it by parts, but to strike at once at the basis, by denying the right of the mother country to impose taxes on the colonies, which not being represented in parliament, did neither really nor virtually consent to the imposition." Adolphus.

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and expences thereof be charged upon, and paid out of, the sinking fund, in the same and like manner as those of the said annuities granted anno 1762, are paid and payable; and that such persons as shall not, on or before the 1st June, 1764, signify their dissent in books to be opened at the bank of England for that purpose, shall be deemed and taken to assent thereto.

20. That the 3 per cent. annuities, granted anno 1761, in respect of the sum of 12 millions borrowed towards the supply of the year 1761, together with the charges and expences attending the same, be, with the like consent of the several proprietors thereof, charged upon and made payable out of, the sinking fund.

21. That all the monies that have arisen, since the 5th Jan. 1764, or that shall and may hereafter arise, of the produce of the additional duty upon strong beer and ale,

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" To promote his favourite object, of increasing the productiveness of revenue, Mr. Grenville extended the collecting powers of naval officers to America and the West Indies. There was a clandestine trade carried on between the English and Spanish colonies, to the great advantage of both, especially the former, and even of Great Britain herself; because through this channel British manufactures were introduced in the Spanish settlements, and the returns were made principally in gold and silver. Though this traffic was not contrary to the spirit of any act of parliament, yet the officers of the navy appointed to prevent smuggling, not having received definite instructions from home, put a stop to the intercourse however beneficial: they seized indiscriminately all the ships employed in this commerce, whether belonging to fellow subjects, or to foreigners. The North Americans, who had found this trade extremely lucrative, murmured loudly at the fatal check which it thus received; and Mr. Grenville's laudable desire of increasing the revenue, being pursued too exclusively, produced measures which, though not very important in their financial operations, were followed by political consequences of the highest moment. He formed a plan to oblige the inhabitants of the American colonies to bear a share in the expence necessary for their protection, by paying taxes to be imposed by the British parliament. A distinction had obtained in these provinces, between duties on the importation and exportation of merchandise, and taxes. Customs had been imposed upon certain enumerated goods, if carried to some other place instead of Great Britain; and when specific articles, the produce of one colony, were to be exported to another, they paid a duty. To these imports, considering them merely as regulations of trade, and not as taxes, the colonies had submitted. Mr. Grenville therefore proposed a deviation from the established practice, and the assertion of a claim which involved in it very important questions, respecting not only general liberty, but also the constitutional freedom of a British subject. Intended by him merely as a scheme of finance upon old and established grounds, his project proposed a political change founded upon new principles, of which experience had afforded no means of ascertaining the operation and effects. It was a much more important and more complicated proposition than its author apprehended; and a plan for making an inconsiderable addition to British revenue, eventually laid the foundation of one of the greatest and most momentous revolutions which history has to record.

" As a part of this innovating system, Mr. Grenville moved in parliament a bill for granting certain duties on goods in the British colonies, to support the government there, and encourage the trade to the sugar plantations; and, on the 6th of April, this proposition was passed into a law. He also proposed another to the following purport: " That, towards further defraying the expence of protecting and securing the colonies, it may be proper to charge certain Stamp Duties in the colonies." He postponed, however, during this session, the introduction of a bill founded on the last resolution, that the Americans might have time to offer a compensation for the revenue which such a tax might produce. The colonial assemblies during the war had been in the practice of issuing bills, which were made a legal tender for money: these had begun to be attended with great inconvenience, and to suffer very considerable depreciation. To remedy the evils, a law was proposed by Mr. Grenville, and passed by parliament, for preventing such bills as might be hereafter issued in any of his Majesty's colonies or plantations in America, from being made legal tenders in payment of money. The restrictions on the clandestine trade had given great umbrage in North America; the law obstructing their paper currency added to the dissatisfaction; but the duties actually imposed upon merchandise, and the resolutions concerning the stamp duty, excited a loud clamour. The New Englanders were the first to investigate these measures. Conceiving the new laws to be part of a general plan for assuming a power not heretofore exercised by Britain over her American colonies, they immediately controverted the fundamental principle, and totally denied the right of a British parliament to levy in any form duties or taxes upon the colonies. The exercise (they said) of such an authority was a violation of their rights as freemen; as colonists, possessing by their charters the power of taxing themselves for their own support and defence; and as British subjects, who ought not to be taxed but by themselves or their representatives. These topics were the subjects of petitions sent over to the King, to the Lords, and to the Commons." Bisset.

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which was made a fund for payment of the 3 per cent. annuities, granted in respect of the sum of 12 millions borrowed by virtue of an act 1 Geo. 3, towards the supply of the year 1761, and also of the annuities for a certain term of 99 years, granted in respect of the same sum, be carried to, and made part of, the sinking fund.

22. That, towards raising the supply granted to his Majesty, there be issued and applied the sum of 2 millions, out of such monies, as shall or may arise of the surplusses, excesses, or overplus monies, and other revenues, composing the fund commonly called the Sinking Fund, 2,000,000*l.*

March 13. 1. That an additional duty of 1*l.* 2*s.* per cwt. be laid upon all white or clayed sugars, of the produce or manufacture of any foreign American colony or plantation imported into any British colony or plantation in America.

2. That the produce of the said additional duty be paid into the receipt of his Majesty's exchequer, and there reserved to be, from time to time, disposed of by parliament, towards defraying the necessary expences of defending, protecting, and securing, the British colonies and plantations in America.

3. That upon all wines (except French wines) exported as merchandize, from this kingdom, to the British colonies and plantations in America, a drawback be allowed of all the duties paid on the importation of such wines, except 3*l.* 10*s.* per ton, part of the additional duty of 4*l.* per ton, granted by an act made in the last session of parliament; and also except such part of the duties paid upon wines, imported by strangers or aliens, or in foreign ships, as exceeds what would have been payable upon such wines, if the same had been imported by British subjects and in British ships.

4. That no allowance be made for leakage, upon the importation of any wines into this kingdom, unless such wines be imported directly from the place of their growth, or from the usual place of their first shipping, except only Madeira wines, imported from any of the British colonies or plantations in America, or from the East Indies.

5. That any person, or persons, be permitted to import, in ships belonging to his Majesty's subjects, whale fins, taken from whales caught, by any of his Majesty's subjects, in the gulph or river of St. Lawrence, or in any seas on the coasts of any of his Majesty's colonies in America, without paying any custom, subsidy, or duty, for the same (other than and except the rate or duty commonly called the old subsidy) for the term of 7 years, from the 25th Dec. 1763.

March 15. 1. That the persons interested in, or entitled unto, all or any of the bills payable in course of the navy or victualling offices, or for transports, made out on or before the 31st Dec. 1762, which in pursuance of a resolution of this House of the 6th Feb. last, have been delivered to the treasurer of his Majesty's navy, in order to be converted into annuities, as mentioned in the said resolution, and who, instead of such annuities, shall chuse to receive the principal and interest due on such bills to the time of the payment thereof, and shall, in books to be opened for that purpose, at the office of the said treasurer, express their consent thereunto, on or before the 31st of this present instant March, shall be entitled to receive such principal and interest in discharge of the said bills, out of the money granted to his Majesty in this session of parliament, towards paying off and discharging the debt of the navy, upon their delivering up the notes or receipts issued for the same, in like manner as if they had not delivered the said bills to the treasurer of his Majesty's navy, according to the resolution of this House of the 6th February last; and that such of the said bills for and in respect whereof such consent shall not be so expressed on or before the 31st of this present instant March, be converted into annuities as mentioned in the said resolution, and consolidated with the annuities granted by an act of the last session of parliament, to satisfy certain navy, victualling and transport bills, and ordnance debentures.

2. That the duties now payable upon beaver skins imported into Great Britain, from his Majesty's dominions in America, do cease, determine, and be no longer paid.

3. That, in lieu of the said former duties there be granted to his Majesty a duty of one penny, to be paid upon the importation of every beaver skin into Great Britain, from his Majesty's dominions in America.

4. That there be granted to his Majesty a duty of 7*d.* upon each beaver skin, or piece of such skin, exported from Great Britain.

5. That there be granted to his Majesty

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a duty of 1*s.* 6*d.* per pound, for all beaver wool exported from Great Britain.

6. That the said duties be made applicable to the same purposes, to which the former duties upon beaver skins were applied.

7. That no drawback be allowed upon beaver skins exported from Great Britain.

March 22. 1. That there be raised by loans or exchequer bills, to be charged upon the first aids to be granted in the next session, and such exchequer bills, if not discharged, with interest thereupon, on or before the 5th of April, 1765, to be exchanged and received in payment, in such manner as exchequer bills have usually been exchanged, and received in payment, the sum of 800,000*l.*

2. That the sum of 3,497*l.* 9*s.* 9*d.* remaining in the receipt of the exchequer, being the surplus of the several duties upon beer and ale, granted by an act of the 1st of his Majesty's reign, after satisfying all charges and incumbrances thereupon, to the 5th Jan. 1764, be issued and applied, towards making good the supply granted in this session.

3. That such part of the sum of 150,000*l.* granted in the last session for defraying the charge of the pay and clothing of the militia for one year, beginning the 25th March, 1763, as shall remain in the receipt of the exchequer, after the said charge is satisfied, be issued and applied, towards raising the supply granted in this session.

4. That the act of the 5th of Geo. 2, chap. 28, is near expiring, and fit to be continued.

5. That the act of the 6th of Geo. 2, chap. 33, is near expiring, and fit to be continued.

6. That the act of the 22d of Geo. 2, ch. 45, is near expiring, and fit to be continued.

The King's Speech at the Close of the Session.] April 19. His Majesty put an end to the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I cannot put an end to this session of parliament without returning you my thanks for the prudent and salutary measures which you have taken to extend the commerce, and to secure the happiness of my kingdoms.

"The assurances which I have received of the pacific disposition of the several powers with whom we were lately at war, and of their resolution to adhere inviolably to the terms of the late treaty, promise the continuance of peace abroad; and the firm and temperate exertion of your authority, joined to the constitutional and public spirited conduct which you have manifested on every occasion during the present session, will, I trust, establish at home due obedience to the laws, reverence to the legislature, and domestic union.

"Gentlemen of the House of Commons,

"I thank you for the Supplies which you have so cheerfully and unanimously granted. The ample provision you have made for the several services recommended to you, and especially for maintaining my fleet in a respectable state, will, I am confident, preserve to this nation its proper weight and influence, and give strength and security to all my dominions.

"The wise regulations which have been established to augment the public revenues, to unite the interests of the most distant possessions of my crown, and to encourage and secure their commerce with Great Britain, call for my hearty approbation.

"Your regard to public credit in discharging a part of the heavy debt contracted and unprovided for during the late war, without imposing on this kingdom the burden of any new taxes, is particularly pleasing to me, from the tender concern which I feel for my people.

"My Lords and Gentlemen,

"It is the proper employment of this season of tranquillity, to consider of the most effectual means for perfecting those works of peace, and plans of public utility which have been so wisely and happily begun.

"I recommend these important objects to your consideration, during the recess: you may depend on my constant endeavours for the success of these good purposes: as I shall ever esteem it my truest glory to employ that power with which the constitution hath entrusted me, in promoting your real interests and lasting happiness."

The Parliament was then prorogued to the 21st of June; and was afterwards further prorogued to the 10th of January 1765.

END OF VOL. XV.

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